

MT LEGISLATIVE HISTORY

Chapter 460 1977

Bill H _____ S 26

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Natural Resources

Hearing Date(s) Feb 07 ☒ C

Hearing Date(s) Jan 11 ☒ C

_____ ☐ C

Jan 13 ☒ C

_____ ☐ C

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Date Out _____ ☐ C

Jan 13 ☒ C

No minutes were found
regarding final House Judiciary action
ditto

Free Conference Committee 3/30ish

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 SENATE BILL NO. 26
2 INTRODUCED BY GRAHAM
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS
6 89-128, 89-1901, AND 89-2818, R.C.M. 1947."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 89-105, R.C.M. 1947, is amended to
10 read as follows:
11 "89-105. ~~Power of department to construct works and to~~
12 ~~act beyond jurisdiction~~ Construction of works by department.
13 (1) Subject to the approval of the board, the department
14 may construct works, the cost of the construction to be paid
15 wholly by means of or with the proceeds of revenue bonds
16 hereinafter authorized or of a grant to aid in financing the
17 construction from the United States or any instrumentality
18 or agency thereof and of other funds provided ~~under the~~
19 ~~authority of this act for the construction.~~ Before
20 constructing a project, the department shall estimate the
21 cost of the project, the cost of maintaining, repairing, and
22 operating it, and the revenues to be derived therefrom, and
23 a project may not be constructed unless, according to the
24 estimates, the revenues to be derived will be sufficient to
25 pay the cost of maintaining, repairing, and operating it,

1 and to pay the principal and interest of revenue bonds which
2 may be issued for the cost of the project; however, in
3 connection with the issuance of revenue bonds, the failure
4 of the department to make the estimates required by this
5 section or to make them in proper form does not affect the
6 validity or enforceability of those bonds or of the trust
7 indenture, resolution, or other security therefor.

8 (2) ~~However, should~~ Should the bid of the lowest
9 responsible bidder on any capital improvement associated
10 with public works ~~as defined in this section~~ exceed the
11 department estimates of the cost of the improvements by more
12 than ~~five per cent (5%),~~ the department shall obtain
13 approval from the water user association, ~~whenever an~~
14 association is involved, before the bid is accepted;
15 however, capital improvements of an emergency nature
16 necessary to protect life or property or to supply immediate
17 needs for water do not require such approval.

18 (3) ~~The~~ A purpose of this act is to meet, so far as
19 possible, a ~~state-wide~~ statewide need for the conservation
20 and use of water, through the construction and operation of
21 projects designed for those purposes. ~~The department may~~
22 ~~make investigations as are necessary to plan and carry out a~~
23 ~~comprehensive state-wide program of water conservation.~~ The
24 projects to be finally constructed shall qualify as parts of
25 the ~~state-wide~~ statewide program and shall be approved by

the board upon the showing of their prospective ability to meet, through the sale of water or other services, the cost of operation, maintenance, and repair and the amortization of the cost of the construction, ~~however, the~~ The failure of the board to determine the prospective ability of a project does not affect the validity or enforceability of the bonds or of the trust indenture, resolution, or other security therefor.

(4) The department may exercise any of its powers:

(a) ~~It is~~ in an adjoining state, unless the exercise of that power is not permitted under the laws of that state or of the United States;

(b) ~~It is~~ in a national forest or public domain of the United States adjoining, or located in, the state of Montana, unless the exercise of those powers is not permitted under the laws of the United States;

(c) ~~It is~~ in an adjoining country, unless the exercise of those powers is not permitted under the laws of that country or of the United States or under the treaties between that country and the United States."

Section 2. Section 89-115, R.C.M. 1947, is amended to read as follows:

~~"89-115. Water funds rates sale of water appeals to board lease and sale of water rights and property management of property -- water contracts. (1) Subject to~~

this act and ~~section~~ 89-103.2, the department may fix and establish the prices, rates, and charges at which the resources and facilities made available under this act may be sold and disposed of; enter into contracts and agreements, and do those things which in its judgment are necessary, convenient, or expedient for the accomplishment of the purposes and objects of this act, under such general ~~regulations rules~~ and upon such terms, limitations, and conditions as it prescribes, ~~the~~ The department shall enter into the contracts and fix and establish the prices, rates, and charges so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance of the works authorized by this act, together with necessary repairs thereto, and which will provide at all times sufficient funds to meet and pay the principal and interest of all bonds or loans as they severally become due and payable, ~~this~~ This act does not authorize any change, alteration, or revision of those rates, prices, or charges as established by any contract entered into under this act except as provided by the contract.

(2) An incorporated water users' association that is sustaining and responsible for the operations of a works is solely liable for any court action which may be brought against it or the state of Montana for any injury or damages occurring on the works caused by a failure to maintain safe

working and operating conditions.

(3) A contract made by the department for the sale of water, use of water, water storage, or other service, or for the sale of any property or facilities, shall provide that, in the event of a failure or default in the payment of moneys specified in the contract to be paid to the department, the department may, upon notice as is prescribed in the contract, terminate the contract and all obligations thereunder. The act of the department in ceasing on default to furnish or deliver water, use of water, water storage, or other service under the contract does not deprive the department of, or limit any remedy provided by the contract or by law for the recovery of moneys due or which may become due under the contract.

(4) (a) A person aggrieved by a decision of the department to terminate any contract under subsection (3) may appeal to the board and be heard thereon by filing written notice of the appeal with the department within ~~ten~~ ^{thirty} days after receiving notice of termination of the contract from the department. The termination of the contract shall be stayed if an appeal is taken.

(b) If a dispute arises between the department and another party regarding amounts owing or the terms and conditions under a water marketing or water purchase contract, or under a contract for the construction or repair

of works, that party may appeal to the board for a hearing thereon and a resolution of the dispute by filing written notice of the appeal with the department within ~~thirty~~ ^{thirty} days after the final decision of the department regarding the dispute.

(5) Subject to the approval of the board under section 89-103.2, the department may sell, transfer to water user associations, abandon, or otherwise dispose of any ~~rights-of-way~~ ^{rights-of-way}, easements, or property when it determines that they are no longer needed for the purposes of this act, or lease or rent the same or otherwise take and receive the income or profit and revenue therefrom. A determination shall be made by the department as to the market value of ~~rights-of-way~~ ^{rights-of-way}, easements, or property to be sold, transferred, abandoned, or otherwise disposed of. ~~All income or profit and revenue of the works and all moneys received from the sale or disposal of water, use of water, water storage, or other service, and from the operation, lease, sale or other disposition of the works, property and facilities acquired under this act, shall be deposited to the state general fund.~~

Section 3. Section 89-401, R.C.M. 1947, is amended to read as follows:

"89-401. Disposition of moneys collected. (1) For the purpose of carrying out the provisions of the ~~Water~~

~~Conservation Act, acts amendatory thereto and supplementary~~
~~thereof, Chapter 1 of Title 89~~ and such other water resource
 authority, powers, and duties as are conferred upon the
 department of natural resources and conservation by law, the
 following moneys shall be deposited in the earmarked revenue
 fund for the use of the department:

(a) all sums of money donated or contributed by the
 federal government or any department or agencies thereof;

(b) all gifts, donations, bequests, and devises made
 to the state therefor, and proceeds of the sale thereof; and
 the proceeds of the sale or redemption of and the interest
 earned by the securities purchased or acquired by the moneys
~~thereof with money received under this subsection;~~

(c) all reimbursements for money advanced for the
 payment of the assessments upon state, ~~school-granted~~
~~school-granted~~, and other public lands for the improvement
 thereof as provided by law;

(d) all reimbursements for money advanced for the
 investigation and survey of reclamation, electrification,
 and rehabilitation systems or projects proposed to be
 financed in whole or in part by the reclamation of lands and
 dyking, drainage, and dyking and drainage dams for
 conservation of water to be used in reclamation of land or
 stock reservoirs or for the construction, maintenance, and
 operation of plants or projects for the manufacture or

distribution of electric current; ~~revenues arising from~~
~~projects constructed or owned by the department in excess of~~
~~costs of operation and maintenance, and repayment of~~
~~principal and interest of any moneys borrowed for the~~
~~construction of the projects; all sums payable as rentals~~
~~due for water use, maintenance or operation upon any project~~
~~owned by the state or for which such rentals are due and~~
~~payable under any contract or agreement made by any person,~~
~~association or corporation with the department; all sums of~~
~~money received by the department for the use of electric~~
~~current, in excess of the maintenance and operation upon any~~
~~electrification system or project;~~

(e) all reimbursements for costs of surveys and
 investigations for moneys advanced to counties, cities or
 towns or their proportion of the cost thereof, or from any
 other sources.

(2) The following shall be deposited in the state
general fund:

(a) all income or profit and revenue of the works and
all money received from the sale or disposal of water, use
of water, water storage, or other service and from the
operation, lease, sale, or other disposition of the works,
property, and facilities acquired under chapter 1 of Title
89; and

(b) all sums received by the department for the use of

1 electricity in excess of the maintenance and operation of
2 the electrification system or project."

3 Section 4. Section 89-125, R.C.N. 1947, is amended to
4 read as follows:

5 "~~89-125. Powers of department concerning waters and~~
6 ~~appropriations thereof Department powers over state waters.~~

7 (1) The authority of the department conferred by this ~~act~~
8 ~~chapter~~ extends and applies to rights to the natural flow of
9 the waters of this state which it may acquire, with the
10 approval of the board, by condemnation, purchase, exchange,
11 appropriation, or agreement.

12 (2) For the purpose of regulating the diversion of
13 those waters, the department may enter upon the means and
14 place of use of all appropriators for making surveys of
15 respective rights and seasonal needs.

16 (3) The department may take into consideration the
17 decrees of the courts of this state having jurisdiction,
18 which purport to adjudicate the waters of a stream or its
19 tributaries, and a fair, reasonable, and equitable
20 reconciliation shall be made between the claimants asserting
21 rights under different decrees and between decreed rights
22 and asserted rights of appropriation not adjudicated by any
23 court.

24 (4) The department, at its discretion, may hold
25 hearings relating to the rights of respective claimants

1 after first giving such notice as it ~~deems~~ considers
2 appropriate, and make findings of the date and quantity of
3 appropriation and use of all claimants which the department
4 will recognize and observe in diverting the waters which it
5 owns. The department may police and distribute to the owner
6 of the recognized appropriation the waters due him upon
7 request and under terms agreed upon.

8 (5) The department, when engaged in controlling and
9 dividing the natural flow of a stream under the authority
10 granted by this ~~act~~ chapter, is exercising a police power of
11 the state, and water commissioners appointed by any court
12 may not deprive the department of any of the waters owned or
13 administered under agreement with respective owners, but the
14 owner of a prior right contending that the department is not
15 recognizing and respecting the appropriation may resort to a
16 court for the purpose of determining whether or not the
17 rights of the claimant have been invaded, and the department
18 shall observe the terms of the final decree.

19 (6) When the department impounds or acquires the right
20 of appropriation of the waters of a stream, it may divert or
21 authorize the diversion at any point on the stream, or any
22 portion thereof, when it is done without injury to a prior
23 appropriator.

24 ~~(7) This act does not repeal or amend an existing~~
25 ~~statute pertaining to the appropriation or use of water~~

~~except as expressly provided in this act, and this act does not interfere with vested rights to the use of water.~~

~~(8) In addition to the powers conferred on the department elsewhere in this chapter,~~

~~(7) the~~ The department may acquire water by purchase option or agreement with the federal government from the Fort Peck Reservoir for the purpose of sale, rent, or distribution for industrial use. In such cases, the department is not required to construct any diversion or appropriation facilities or works, and it may sell, rent, or distribute such water at such rates and under such terms and conditions as it considers appropriate."

Section 5. Section 89-319, R.C.M. 1947, is amended to read as follows:

"89-319. Separate permit for each operation. (1) Separate permits shall be issued for each operation.

(2) "Operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce, a certain modifying effect within one ~~(4)~~ geographical area over one continuing time interval not exceeding ~~one~~ ~~(1)~~ year."

Section 6. Section 89-823, R.C.M. 1947, is amended to read as follows:

"89-823. Owners of water to sell surplus. Any person having the right to use, sell, or dispose of water, and

engage in using, selling, or disposing of the same, who has a surplus of water not used or sold, or any person having a surplus of water, and the right to sell and dispose of the same, is required, upon the payment or tender to the person entitled thereto of an amount equal to the usual and customary rates per ~~each~~ cubic foot of water per second, to convey and deliver to the person ~~such~~ the surplus of unsold water, or so much thereof for which ~~said~~ the payment or tender ~~shall have been~~ has been made, and shall continue ~~so~~ to convey and deliver the same weekly so long as ~~said~~ the surplus of unused or unsold water exists and ~~said~~ the payment or tender ~~be~~ is made as aforesaid."

Section 7. Section 89-867, R.C.M. 1947, is amended to read as follows:

"89-867. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including geothermal water.

(2) "Beneficial use" means a use of water for the benefit of the appropriator, other persons, or the public, including, but not limited to, agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal power, and recreational uses, provided, ~~however, that a~~ A use of water for slurry to export coal

from Montana is not a beneficial use. Slurry is a mixture of water and insoluble matter.

(3) "Appropriate" means to divert, impound, or withdraw (including by stock for stock water) a quantity of water, or, in the case of a public agency, to reserve water in accordance with ~~sections~~ 89-890.

(4) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(5) "Groundwater" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(6) "Well" means any artificial opening or excavation in the ground, however made, by which groundwater is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(7) "Permit" means the permit to appropriate issued by the department under ~~sections~~ 89-880 through 89-887.

(8) "Certificate" means the certificate of water right issued by the department under ~~sections~~ 89-879, 89-880 (5), and 89-888.

(9) "Declaration" means the declaration of an existing right filed with the department under ~~sections~~ 89-872.

(10) "Waste" means the unreasonable loss of water

through the design or negligent operation of an appropriation or water distribution facility, or the application of water to anything but a beneficial use.

(11) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law, or other public body of the state empowered to appropriate water, but not a private corporation, association, or group.

(12) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, ~~and~~ or the United States or any agency thereof.

(13) "Department" means the department of natural resources and conservation provided for in Title 82A, chapter 15.

(14) "Board" means the board of natural resources and conservation provided for in ~~sections~~ 82A-1509.

~~(15) "Act" means the Montana Water Use Act and any subsequent amendments or additions thereto."~~

Section 8. Section 89-2911, R.C.M. 1947, is amended to read as follows:

"89-2911. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

~~(a) (1) "Ground-water~~ Groundwater" means any fresh water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and

which is not a part of that surface water. Fresh water shall be deemed considered to be water fit for domestic, livestock, or agricultural use. The department, after notice and hearing, may fix definite standards for determining fresh water in any controlled ~~ground-water~~ groundwater area or subarea of the state.

~~(b)(2)~~ "Aquifer" means any underground geological structure or formation which is capable of yielding water or is capable of recharge.

~~(c)(3)~~ "Well" means any artificial opening or excavation in the ground, however made, by which ~~ground-water~~ groundwater is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

~~(d)(4)~~ "Beneficial use" means a use of water for the benefit of the appropriator, other persons or the public, including, but not limited to, agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses. A use of water for slurry to export coal from Montana is not a beneficial use. Slurry is a mixture of water and insoluble matter.

~~(e)(5)~~ "Person" means an individual, association, partnership, corporation, state agency, political subdivision, ~~and~~ or the United States or any agency thereof.

~~(f)(6)~~ "Department" means the department of natural resources and conservation provided for in Title 82A, chapter 15.

~~(g)(7)~~ "~~Ground-water~~ Groundwater area" means an area which, as nearly as known facts permit, may be designated so as to ~~enclose~~ enclose a single and distinct body of ~~ground-water~~ groundwater, which shall be described horizontally by surface description in all cases and which may be limited vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of administration, large ~~ground-water~~ groundwater areas may be divided into convenient administrative units "known as "subareas-".

~~(h)(8)~~ "Board" means the board of natural resources and conservation provided for in ~~section~~ 82A-1509.

(9) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water, but not a private corporation, association, or group."

Section 9. Section 89-899, B.C.M. 1947, is amended to read as follows:

"89-899. Legal assistance. (1) When requested by the department, the attorney general and the county attorneys within their respective counties shall perform legal

services and conduct legal proceedings necessary to carry out the purposes of this ~~act~~ chapter. The department may also employ legal counsel to enforce this ~~act~~ chapter and to conduct proceedings under it.

(2) If an appropriator who is a citizen of Montana becomes involved in a controversy to which any agency of the federal government or another state is a party, the department may in its discretion intervene as a party or provide necessary legal assistance to the citizen of Montana."

Section 10. Section 89-2930, R.C.M. 1947, is amended to read as follows:

"89-2930. Duty of county attorneys and attorney general. The county attorneys and the attorney general of the state shall perform such legal services and bring such legal proceedings in carrying out the purpose of this ~~act~~ chapter within their respective counties as the department ~~shall~~ may request. The department may also employ legal counsel to enforce this chapter and to conduct proceedings under it."

Section 11. Section 89-907, R.C.M. 1947, is amended to read as follows:

"89-907. Filing written statement with department.

(1) Any person claiming an appropriative right to the use of any water of any interstate tributary which right was

acquired after January 1, 1950, shall, within ~~sixty~~ 60 days after ~~the approval of this act February 25, 1953,~~ or before he diverts any water, file with the department at its office in Helena, Montana, a written statement containing the following information:

(a) ~~The~~ the name of the claimant and his address;

(b) ~~Date~~ date of appropriation or the date when the water was first applied to a beneficial use;

(c) ~~The~~ the quantity of water claimed;

(d) ~~The~~ the name of the stream, river, or other source of water from which the diversion is made, if it has a name, and if it does not, ~~such~~ a description ~~as will identify~~ identifying the same;

(e) ~~The~~ the purpose for which the water is claimed and the place of intended use;

(f) ~~The~~ the means of diversion;

(g) ~~Whether~~ whether or not a weir or other device for measuring the water intended to be diverted has been installed in his ditch or other means of diversion;

(h) ~~If~~ if a notice of appropriation was filed with the county clerk and recorder, ~~as provided by section 89-810,~~ the name of the county where it was filed;

(i) ~~Whether~~ whether the appropriation was made from an adjudicated or nonadjudicated stream, river, or other source of water.

1 (2) The written statement shall be verified by the
2 affidavit of the claimant or someone in his behalf, which
3 affidavit must state that the matters and facts contained in
4 the written statement are true."

5 Section 12. Section 89-911, R.C.M. 1947, is amended to
6 read as follows:

7 "89-911. Domestic and stock uses ~~not within the act~~
8 exempted. Any appropriation of water from any interstate
9 tributary of the Yellowstone River made for domestic or
10 stock water uses shall will not come within the provisions
11 of this act, ~~provided, that chapter whenever~~ the capacity of
12 ~~any~~ a reservoir for stock water shall does not exceed ~~twenty~~
13 20 acre-feet."

14 Section 13. Section 89-1015, R.C.M. 1947, is amended
15 to read as follows:

16 "89-1015. Complaint by dissatisfied user—~~procedure~~
17 ~~or. Any~~ a person owning or using any of the waters of ~~such~~
18 the stream or ditch or extension of the ditch, who is
19 dissatisfied with the method of distribution of the waters
20 of ~~such the~~ stream or ditch by ~~such the~~ water commissioner
21 or water commissioners, and who claims to be entitled to
22 more water than he is receiving, or ~~is entitled~~ to a right
23 prior to that allowed him by ~~such the~~ water commissioner or
24 water commissioners, may file his written complaint, duly
25 verified, setting forth the facts of ~~such the~~ claim.

1 Thereupon the judge shall fix a time for the hearing of such
2 petition, and shall direct that such notice be given to the
3 parties interested in ~~such the~~ hearing as the judge ~~may deem~~
4 considers necessary. At the time fixed for ~~such the~~
5 hearing, the judge must hear and examine the complainant and
6 ~~such~~ other parties as may appear to support or resist such
7 claim, and ~~also~~ examine ~~such the~~ water commissioner or water
8 commissioners and witnesses as to the charges contained in
9 ~~said the~~ complaint. Upon the determination of the hearing,
10 the judge shall make such findings and order as he ~~may deem~~
11 considers just and proper ~~in the premises~~. If it shall
12 ~~appear~~ appears to the judge that the water commissioner or
13 water commissioners have not properly distributed the water
14 according to the provisions of the decree, ~~then~~ the judge
15 shall give the proper instructions for such distribution.
16 The judge may remove ~~such any~~ water commissioner ~~or water~~
17 ~~commissioners~~ and appoint some other person ~~or persons~~ in
18 his ~~or their~~ stead, if he ~~deems~~ considers that the interests
19 of the parties in the waters mentioned in ~~such the~~ decree
20 will be best subserved thereby, and if it ~~shall appear~~
21 appears to the judge that the ~~said~~ water commissioner ~~or~~
22 ~~water commissioners~~ has willfully failed to perform
23 ~~their his~~ duties, ~~they he~~ may be proceeded against for
24 contempt of court, as provided in contempt cases. The judge
25 shall make such order as to the payment of costs of ~~such the~~

1 hearing as ~~say appear~~ appears to him to be just and proper."

2 Section 14. Section 89-1202, R.C.M. 1947, is amended
3 to read as follows:

4 "89-1202. Petition for organization. (1) For the
5 purpose of establishing and organizing an irrigation
6 district hereunder, a petition signed by the required number
7 of holders of title or evidence of title to lands within
8 ~~such the~~ proposed district mentioned in the preceding
9 section shall be filed with the clerk of the district court
10 of the county in which ~~the lands of the proposed district,~~
11 ~~or the greater portion thereof, are situated; provided, if~~
12 ~~there are three or more counties embraced in the proposed~~
13 ~~district, and no one county embraces the greater portion of~~
14 ~~said lands, then and in that event said petition shall be~~
15 ~~filed in the county which embraces a greater portion of said~~
16 ~~lands than any one of the other counties embraced in said~~
17 ~~proposed district the greatest portion of the lands of the~~
18 ~~proposed district are located. Such~~ The petition shall set
19 forth:

20 1-(a) The the name suggested for the proposed
21 district;

22 2-(b) A general description of the lands to be
23 included in the proposed district;

24 3-(c) The the names of the holders of title or
25 evidence of title to the lands in the proposed district,

1 ascertained in the manner mentioned in the preceding
2 section, and if ~~any such~~ a holder is a nonresident of the
3 county or counties in which the proposed district lies, the
4 post-office address of ~~such the~~ nonresident owner, if known;

5 4-(d) ~~Generally~~ generally, the source from which the
6 lands in the proposed district are to be irrigated, and the
7 character of the works, water rights, canals, and other
8 property proposed to be acquired or constructed for
9 irrigation purposes in the proposed district;

10 5-(g) A prayer that the lands embraced within the
11 proposed district be organized as an irrigation district
12 according to the applicable provisions of ~~this act~~ chapters
13 12 through 21 of title 89.

14 (2) The petition shall be accompanied by:

15 1-(a) a map or plat of the proposed district; and

16 2-(b) a good and sufficient bond or undertaking, to
17 be approved by the district court or judge thereof of the
18 county in which the petition is required to be filed under
19 the provisions of ~~this act~~ subsection (1), to pay all costs
20 in and about the proceedings preliminary to the organization
21 of the district in the event that ~~said the~~ organization
22 ~~shall~~ is not be effected.

23 (3) Here error or omission in the description of any
24 lands or in the names of any of the holders of title or
25 evidence of title to lands ~~shall not operate to does not~~

1 render invalid any proceedings hereunder, or to deprive the
2 district court of jurisdiction of the subject matter,
3 ~~provided, such~~ Such misdescribed lands or misnamed persons
4 ~~shall may~~ not be included in ~~said the~~ district."

5 Section 15. Section 89-1204, R.C.M. 1947, is amended
6 to read as follows:

7 "89-1204. Hearing on petition and appointment of
8 commissioners. (1) At the time specified in the notice
9 mentioned in the preceding section, the district court in
10 which the petition ~~aporesaid~~ is filed shall hear the
11 petition, but may adjourn such hearing from time to time,
12 not exceeding ~~three~~ 3 weeks in all, and may continue the
13 hearing for want of sufficient notice or other good cause.
14 The court, upon application of the petitioners or any
15 interested person or persons interested, shall permit the
16 petition to be amended, and may order further or additional
17 notice to be given. Upon such hearing all interested persons
18 interested, whose lands or rights may be damaged or
19 benefited by the organization of the district or by the
20 irrigation works or improvements therein or to be acquired
21 or constructed ~~as hereinafter set forth~~, may appear and
22 contest the necessity or utility of the proposed district,
23 or any part thereof, and the contestants and petitioners may
24 offer any competent evidence in regard thereto.

25 (2) ~~It shall be the duty of the~~ The court to shall

1 hear and determine whether the requirements of ~~sections~~
2 89-1201, 89-1202, and 89-1203 have been complied with, and
3 for that purpose shall hear all competent and relevant
4 testimony that may be offered.

5 (3) (a) The court may make such changes in the
6 proposed district as may be deemed considered advisable, or
7 as fact, right, and justice may require, ~~but shall not~~
8 ~~exclude from such proposed district any land~~ land which is
9 susceptible of irrigation from the same general source, and
10 by the same general system of works applicable to the other
11 lands of ~~such the~~ proposed district, ~~may not be excluded~~
12 ~~from the proposed district~~ if the owner or owners of ~~such~~
13 ~~the~~ lands shall file in ~~such the~~ district court a written
14 request that ~~such the~~ lands be included, ~~in such district,~~
15 ~~nor shall any lands which will not, in the judgment of the~~
16 ~~court, be benefited by irrigation by means of said system of~~
17 ~~works, nor shall lands already under irrigation, nor lands~~
18 ~~having water rights appurtenant thereto, nor lands that can~~
19 ~~be irrigated from sources more feasible than the district~~
20 ~~system, be included within such proposed district, unless~~
21 ~~the owner of such lands shall consent in writing to the~~
22 ~~inclusion of such lands in the proposed district, as~~
23 ~~hereinafter provided, and to this end the court may~~
24 ~~subdivide lands included within the petition or proposed at~~
25 ~~the hearing to be included within such district into~~

~~forty-acre tracts or smaller subdivisions thereof; provided, however, that where a district is formed to co-operate with the United States, lands previously irrigated and having water rights appurtenant thereto may be included within the district boundaries, if it shall appear to the court that the same will be benefited thereby; and provided further, that all lands having water rights appurtenant thereto, which are served by a system of irrigation works supplying more than ten thousand acres of lands, say, in the discretion of the court, be included in the proposed district on petition of at least a majority both in number and acreage of the holders of title or evidence of title to the land having water rights appurtenant thereto, and served by the same system of irrigation works. Lands of the district need not be contiguous, and any particular tract or tracts, irrespective of their location in the district, may be excluded.~~

(b) Lands which will not, in the judgment of the court, be benefited by irrigation from the works of the proposed district; which are already under irrigation; which have appurtenant water rights; or which can be irrigated from sources more feasible than the proposed district may not be included in the district unless the owner of such lands consents in writing to the inclusion.

(c) Notwithstanding the provisions of subsection

(3)(b), whenever a district is formed to cooperate with the United States, lands previously irrigated and having appurtenant water rights may be included within the district boundaries if it appears to the court that the lands will be benefited by inclusion.

(d) All lands having appurtenant water rights, served by an irrigation works system supplying more than 10,000 acres, may, in the discretion of the court, be included in the proposed district upon petition by at least a majority, both in number and acreage, of the holders of title or evidence of title to the lands served by the irrigation system and having appurtenant water rights.

(e) Lands of the district need not be contiguous. The location of a particular tract in the proposed district is not a bar to exclusion.

(4) For purposes of including or excluding land from a proposed district, the court may subdivide any tract into 40-acre or smaller parcels.

~~(4)(5)~~ If, on final hearing, it is found by the court that the petition does not substantially comply with the aforesaid requirements of this act, or that the facts therein stated are not sustained by the evidence, then the court shall dismiss the petition at the cost of the petitioners, and shall make and enter an order to that effect, ~~but if~~ If it is found that ~~said~~ the petition

1 substantially complies with ~~said the~~ requirements, and that
2 the facts ~~therein~~ stated are sustained by the evidence, ~~then~~
3 the court shall make and enter an order:

4 ~~1-(a) Setting setting~~ forth ~~said~~ findings and allowing
5 ~~said the~~ petition;

6 ~~2-(b) Establishing establishing~~ the proposed district;

7 ~~3-(c) Giving giving~~ accurate descriptions of the lands
8 included within the proposed district;

9 ~~4-(d) Dividing dividing~~ the proposed district into
10 three, five, or seven divisions, as may be advisable in view
11 of the size of the district;

12 ~~5-(e) Appointing appointing~~ as commissioner one
13 competent person for each division of the district, having
14 the qualifications as provided by ~~section~~ 89-1205.

15 ~~4-(5) (6) Each The~~ finding and order ~~shall be are~~
16 conclusive upon all the owners of lands within the district
17 that they have assented to and accepted the applicable
18 provisions of ~~this act, chapters 12 through 21 of Title 89~~
19 and ~~shall be are~~ final unless appealed from to the supreme
20 court within ~~sixty~~ 60 days from the day of entry of ~~such the~~
21 order. A copy of ~~such the~~ order, duly certified to by the
22 clerk of ~~said the~~ district court, shall be filed for record
23 within ~~thirty~~ 30 days after ~~such the~~ order is made and
24 entered with the county clerk and recorder of the county
25 ~~wherein where~~ the lands included within ~~such the~~ district

1 are situated, ~~provided, however, there shall be omitted~~
2 ~~from such copy lands~~ lands not situated in the county in
3 which ~~such the~~ copy is filed shall be omitted from the copy.

4 ~~4-(6) (7) Every~~ irrigation district so established
5 ~~hereunder is hereby declared to be~~ a public corporation for
6 the promotion of the public welfare, and the lands included
7 therein shall constitute all the taxable and assessable
8 property of such district for the purposes of ~~this act~~
9 chapters 12 through 21 of Title 89."

10 Section 16. Section 89-1205, R.C.M. 1947, is amended
11 to read as follows:

12 "89-1205. Qualifications of commissioners and term of
13 office ~~official bond.~~ (1) No person ~~shall be qualified to~~
14 ~~hold the position of~~ may be a commissioner unless he ~~be is~~
15 an owner of land within the district and ~~shall be is~~ a
16 resident of the county in which the division of the
17 district, or some portion thereof, for which ~~such~~
18 ~~commissioners as the commissioner is~~ elected, is situated.

19 (2) The commissioners appointed ~~as aforesaid~~ shall
20 hold their respective offices until the second Saturday in
21 April following their appointment, and until their
22 respective successors are elected and qualified ~~as and in~~
23 ~~the manner hereinafter provided.~~ Each of ~~such the~~
24 commissioners shall qualify in the same manner as justices
25 of the peace, ~~and shall give a bond in the sum of two~~

~~thousand dollars, conditioned upon the faithful performance of his duties, to be made payable to the state for the benefit of the district, which~~ The bond for a commissioner shall be approved by the district court or judge thereof and filed in the office of the clerk of said the court, provided, that in case any district ~~organized~~ established under this title chapter is appointed fiscal agent of the United States, or is authorized by the United States is authorized to make collections of moneys for and on behalf of the United States in connection with any federal reclamation project, each such commissioner shall execute a further and additional official bond in such sum as the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office, and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States, or by any person injured by the failure of such the commissioner or the district to fully, promptly, and completely perform their respective duties."

Section 17. Section 89-1208, R.C.M. 1947, is amended to read as follows:

"89-1208. Compensation and expenses of commissioners—~~penalty for interest in contract bonds of commissioners.~~

(1) The commissioners, when sitting as a board or when

engaged in the business of the district, shall each receive ~~an amount~~ not to exceed twenty dollars (\$20), per a day for services, and, in addition thereto, their necessary expenses in attending meetings, or when otherwise engaged on district business, including premiums on qualifying bonds and any other bonds required of them in connection with their office, provided such expenses and per diem be approved by a unanimous vote of said the board, and a mileage allowance of twelve 12 cents ~~(8.12)~~ per a mile in attending board meetings or when engaged in the business of the irrigation district.

(2) No commissioner or any other officer named in this act shall ~~may~~ in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits derived therefrom, and for any violation of this provision, such officer shall be deemed is guilty of a misdemeanor and his conviction thereof shall work forfeiture of his office and he shall be punished by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment in the county jail not exceeding six (6) months or by both such fine and imprisonment as provided in 94-7-401.

(3) The commissioners of said an irrigation district shall each furnish a bond in the penal sum of twenty-five hundred dollars (\$2,500.00), with corporate surety

1 conditioned for the faithful performance of their duties
 2 under this act, ~~and the~~ The secretary shall furnish bond,
 3 with corporate surety, in the sum of ~~one thousand dollars~~
 4 ~~(\$1,000.00)~~, conditioned for the faithful performance of his
 5 duties pursuant to this act, and for the proper and
 6 safekeeping of the records and documents of ~~said the~~
 7 district, in all cases where the obligations of ~~said the~~
 8 district, either existing or proposed, total ~~two hundred and~~
 9 ~~fifty thousand dollars (\$250,000.00)~~ or over. In all other
 10 cases the bond for ~~said the~~ commissioners shall be in the
 11 sum of ~~one thousand dollars (\$1,000.00).~~"

12 Section 18. Section 89-1220, R.C.M. 1947, is amended
 13 to read as follows:

14 "89-1220. Purpose. This act is not intended to
 15 conflict in any way with present statutes governing
 16 irrigation districts, but is for the sole purpose of making
 17 it possible for one or more irrigation districts to function
 18 jointly through a central control agency for the purpose of
 19 efficiency, simplicity, and economy."

20 Section 19. Section 89-1311, R.C.M. 1947, is amended
 21 to read as follows:

22 "89-1311. Qualification of electors — and nature of
 23 voting rights, how determined. (1) At all elections held
 24 under the provisions of this act, except as ~~herein~~ otherwise
 25 expressly provided, the following holders of title, or

1 evidence of title, to lands within the district, herein
 2 designated electors, ~~shall be~~ are entitled to vote:

3 4-(a) ~~all~~ all persons having the qualifications of
 4 electors under the constitution and general and school laws
 5 of the state;

6 2-(b) ~~Guardians~~ guardians, executors, administrators,
 7 and trustees residing in the state;

8 3-(c) ~~Domestic~~ domestic corporations, by their duly
 9 organized authorized agents.

10 (2) In all elections held under this act, each elector
 11 ~~shall be~~ is permitted to cast one vote for each ~~forty~~ 40
 12 acres of irrigable land, or major fraction thereof, owned by
 13 ~~such the~~ elector within the district, irrespective of the
 14 location of ~~such the~~ irrigable lands within the tracts
 15 designated by the commissioners for assessment and taxation
 16 purposes, or within congressional subdivisions, platted lots
 17 or blocks, ~~except as hereinafter provided for~~, election
 18 precincts, or district divisions, but any elector owning any
 19 less than ~~forty~~ 40 acres of irrigable land ~~shall be~~ is
 20 entitled to one vote. Until ~~actual determination of~~ the
 21 irrigable area under the proposed plan of reclamation
 22 ~~proposed is had determined~~, all land included within the
 23 boundaries of the district shall be ~~deemed to be~~ considered
 24 irrigable land for election purposes.

25 (3) ~~Where~~ Whenever land is owned by co-owners, ~~said~~

1 ~~the~~ owners may designate one of their number, or an agent,
 2 to cast the vote for ~~said the~~ owners, and one vote only for
 3 each ~~sixty~~ 10 acres of irrigable land, or major fraction
 4 thereof, ~~shall may~~ be cast by ~~said the~~ voting co-owner or
 5 agent. ~~Where~~ Whenever land is under contract of sale to a
 6 purchaser residing within the state, ~~such the~~ purchaser may
 7 vote on behalf of the owner of ~~said the~~ land. When voting,
 8 the agent of a corporation, or ~~of~~ co-owners, ~~or~~ the co-owner
 9 designated for purpose of voting, or the purchaser of land
 10 under contract of sale, as the case may be, shall file with
 11 the secretary of the district, or with the election
 12 officials, a written instrument of his authority, executed
 13 and acknowledged by the proper officers of ~~said the~~
 14 corporation, ~~or~~ by ~~said the~~ co-owners, or by the owner of
 15 ~~such~~ land under contract of sale, as the case may be, and
 16 thereupon ~~such the~~ agent or co-owner, or purchaser, as the
 17 case may be, ~~shall be deemed is~~ an elector within the
 18 meaning of this act. ~~Where~~ Whenever the total irrigable
 19 acreage within any one district has been platted or
 20 subdivided into lots or blocks to the extent of ~~five per~~
 21 ~~cent~~ (5%) or more of the total acreage of the district, each
 22 elector ~~shall be is~~ permitted to cast one vote for each ~~one~~
 23 acre of irrigable land or major fraction thereof owned by
 24 ~~such the~~ elector within the district, irrespective of the
 25 location of such irrigable lands within the tracts

1 designated by the commissioners for ~~the~~ assessment and
 2 taxation purposes or within the congressional subdivisions,
 3 but any elector owning any less than ~~one~~ 1 acre of irrigable
 4 land within ~~said the~~ district ~~shall be is~~ entitled to one
 5 vote. The balloting shall take place in the following
 6 manner: ~~Ten~~ (10) votes or less, separate ballots will be
 7 used; more than ~~ten~~ (10) votes, the elector shall vote in
 8 blocks of ~~ten~~ 10 using one ballot for each ~~ten~~ 10 votes and
 9 separate ballots for odd votes over multiples of ~~ten~~ 10. The
 10 election shall otherwise conform with the provisions ~~set out~~
 11 ~~in articles of 89-1308 of this chapter. It shall be the duty~~
 12 ~~of the~~ The chairman of the commissioners, or such
 13 commissioner as he may delegate, ~~to shall~~ determine before
 14 each election whether the provisions of this paragraph
 15 subsection are in force or whether the provisions heretofore
 16 set out shall apply."

17 Section 20. Section 89-1319, R.C.S. 1947, is amended
 18 to read as follows:

19 "89-1319. Application of act. This act shall apply
 20 only when ~~twenty~~ 20 or more owners of land with water rights
 21 appurtenant thereto, ~~serving at least two thousand acres of~~
 22 ~~land contiguous in location or of reasonably compact area,~~
 23 ~~all are~~ being served by one stream and its branches or from
 24 one source of water supply, and in which the rights to the
 25 use of water shall have been determined by decree of a court

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

4 Section 21. Section 89-1320, R.C.M. 1947, is amended
 5 to read as follows:

6 "89-1320. Petition, ~~hearing,~~ and ~~notice—order of~~
 7 ~~court—commissioners.~~ Whenever the owners of land and water
 8 rights, as described in ~~section~~ 89-1319, desire to organize
 9 for the purposes mentioned in this act, a petition to that
 10 effect, signed by not less than ~~sixty-per-cent~~ 60% of the
 11 individual landowners who shall represent not less than
 12 ~~fifty-one-per-cent~~ 51% of the irrigable acres to be affected
 13 by ~~such the proposed~~ district and ~~fifty-one-per-cent~~ 51% of
 14 the ~~inches~~ cubic feet of water per second decreed or
 15 adjudicated in the stream ~~is from~~ which ~~such the~~ irrigation
 16 district is to operate, shall be filed with the clerk of the
 17 district court of the county or counties in which ~~such the~~
 18 district is to be created. ~~It is provided, however, that for~~
 19 ~~for the purposes purpose~~ of determining whether the
 20 ~~requirement~~ requirements of acreage and cubic feet of water
 21 ~~inches per second~~ has have been met by the petition, water
 22 diverted from the adjudicated stream and distributed under
 23 ~~other~~ irrigation districts other than the one to be created
 24 under this act, ~~shall may~~ not be considered; however, such
 25 water and acreage shall be required to pay ~~any—and~~ all

1 assessments the same as other water and acreage affected by
 2 irrigation districts created under this act. Upon filing of
 3 ~~said the~~ petition, the court shall set a date for a hearing
 4 on the petition, and a written notice not less than ~~five~~ 5
 5 days prior to ~~such the~~ hearing shall be mailed to each
 6 landowner or water right owner affected by the proposed
 7 district. If the court finds, from such hearing, that an
 8 irrigation district, as prayed for in the petition, is
 9 feasible and practical, the court shall issue an order
 10 creating ~~such the~~ irrigation district, which shall
 11 constitute the authority for the district to function for
 12 the purposes and intent as outlined in this act. The court
 13 shall appoint five commissioners, who ~~shall be~~ are
 14 landowners or water right owners, affected by such district,
 15 to act until the first annual meeting, ~~as—provided~~
 16 ~~hereafter."~~

17 Section 22. Section 89-1322, R.C.M. 1947, is amended
 18 to read as follows:

19 "89-1322. Duty of trustees ~~limit on,~~ levy, ~~to cover~~
 20 ~~expense—determination of levy—and~~ indebtedness ~~other than~~
 21 ~~warrant indebtedness not to be created.~~ The board of
 22 trustees ~~shall be authorized to pay~~ develop the source of
 23 supply, ~~to~~ clean, improve, and develop the channel of the
 24 stream, ~~and to~~ do and perform other work on the main
 25 distributing system as will be beneficial to the better

distribution of the waters of ~~each the~~ decreed water right stream, but in no case shall ~~pay~~ the board, to cover the expenses of such work, levy to exceed ~~twenty-five~~ 25 cents per acre in any one year. ~~It is further provided, that when~~ Whenever waters of the stream under the irrigation district, created by this act, are commingled with other waters or it is difficult to determine just how many acres are irrigable by the water rights held in ~~such the~~ stream, the acre basis of levy shall be determined by the number of ~~inches cubic~~ feet of water per second owned by such party or parties at the rate of ~~one inch of water, statutory measurement, .025~~ cubic feet of water per second to the acre. ~~It is further provided, that the~~ The board shall have no authority to ~~pay~~ not issue bonds or to incur any indebtedness other than warrant indebtedness under the limitations ~~proposed imposed~~ by law."

Section 23. Section 89-1411, R.C.M. 1947, is amended to read as follows:

"89-1411. ~~Hearing and notice publication~~ Notice of ~~hearing~~. On such petition being filed, the district court or judge thereof shall make an order fixing the time and place ~~of for a hearing case~~ and directing that notice thereof be given. Thereupon the clerk of ~~said the~~ court shall cause to be published at least once a week for ~~two~~ 2 successive calendar weeks, in the ~~official a~~ newspaper of general

circulation in the county where ~~said the~~ petition is filed, a notice stating the time and place ~~fixed~~ by the district court ~~fixed~~ when and where the hearing on ~~said the~~ petition will be had and containing a brief statement of the matters set forth in ~~said the~~ petition and the object thereof, ~~if~~ If any portion of the lands sought to be excluded from the district ~~the~~ lies within any other county or counties, ~~then~~ ~~said the~~ notice shall also be published as provided above ~~provided in the official a~~ newspaper of ~~such general~~ circulation in the other county or counties. The first publication of ~~said the~~ notice shall be ~~pay~~ not be less than ~~thirty~~ 30 days prior to the time mentioned in ~~said the~~ notice for ~~said the~~ hearing."

Section 24. Section 89-1616, R.C.M. 1947, is amended to read as follows:

"89-1616. ~~Penalty for interfering~~ Interference with commissioners or with distribution system ~~— penalty~~. Any person who shall in any manner ~~interfere~~ interferes with the commissioners of an irrigation district, or their lawful agent or employee in the carrying out of the powers conferred by this act, or who shall ~~change~~ changes or ~~tamper~~ tampers with any lock box, head gate, or other device for the apportionment or distribution of water, installed by or under the authority of ~~such the~~ commissioners, or who shall in any manner ~~obstruct~~ obstructs or ~~change~~ changes the flow

1 of water in the distribution system of any irrigation
 2 district without authority of the commissioners of the
 3 district, shall, in the discretion of the commissioners, be
 4 subject to a forfeiture of his right to the delivery of
 5 water through the distribution system of the district, so
 6 long as such acts shall continue, and shall likewise be
 7 guilty of a misdemeanor and, on conviction, shall be
 8 punishable by a fine of not less than ten dollars (\$10.00)
 9 nor more than one hundred dollars (\$100.00), or by
 10 imprisonment in the county jail for not less than one (1)
 11 day nor more than thirty (30) days or by both such fine and
 12 imprisonment obstructing a public officer or criminal
 13 mischief, as appropriate, and is punishable as provided by
 14 94-7-302 or 94-6-102, as applicable."

15 Section 25. Section 89-1701, R.C.B. 1947, is amended
 16 to read as follows:

17 "89-1701. Limitations on debt-incurring power. (1) The
 18 board of commissioners or other officers of the district
 19 shall have no power to may not incur any debt or liability
 20 whatever, either by issuing bonds or otherwise, except as
 21 provided in this act; and any debt or liability incurred in
 22 excess of such express provisions shall be and remain
 23 absolutely void, except that for the purpose of organization
 24 or for any of the immediate purposes of this act, or to make
 25 or purchase surveys, plans, and specifications, or for

1 stream gauging and gathering data, or to make any repairs
 2 occasioned by any calamity or other unforeseen contingency,
 3 the board of commissioners may, in any one year, incur the
 4 indebtedness of as many dollars as there are acres in the
 5 district, and may cause warrants of the district to issue
 6 therefor. No irrigation district may become indebted, in any
 7 manner or for any purpose in any one year, in an amount
 8 exceeding 15% of the assessed valuation of the district,
 9 except as provided in subsection (2).

10 (2) (a) For the purpose of organization; for any of
 11 the immediate purposes of this chapter; to make or purchase
 12 surveys, plans, and specifications; for stream gauging and
 13 gathering data; or to make any repairs occasioned by any
 14 calamity or other unforeseen contingency, the board of
 15 commissioners may, in any one year, incur the indebtedness
 16 of as many dollars as there are acres in the district and
 17 may cause warrants of the district to issue therefor.

18 (b) For the purpose of organization, for any of the
 19 immediate purposes of this chapter, or to meet the expenses
 20 occasioned by any calamity or other unforeseen contingency,
 21 the board of commissioners may, in any one year, incur (in
 22 addition to the 15% limitation of subsection (1)) an
 23 additional indebtedness not exceeding 10% of the assessed
 24 valuation of the district and may cause warrants of the
 25 district to issue therefor.

(c) The limitation of subsection (1) does not apply to warrants issued for unpaid interest on the valid bonds of any irrigation district.

(d) The limitation of subsection (1) does not apply to any bonds issued under this chapter pursuant to a provision which expressly supercedes the limitation.

(3) Any debt or liability incurred in excess of the limitations provided by the irrigation district laws is void."

Section 26. Section 89-1703, R.C.M. 1947, is amended to read as follows:

"89-1703. Petition for bonds and ~~action thereon~~
issuance of bonds. (1) For the purpose of providing the
~~necessary funds for constructing the necessary irrigation~~
~~canals and works, including drainage works, and works for~~
~~the generation and distribution of electrical energy within~~
~~said district, and acquiring the necessary property and~~
~~rights therefor, and for the purpose of acquiring by~~
~~purchase, or otherwise, waters, water rights, canals,~~
~~reservoirs, reservoir sites, and irrigation works, drainage~~
~~works, and works for the generation and distribution of~~
~~electrical energy constructed, or partially constructed, and~~
~~for the purpose of meeting the expense theretofore incurred~~
~~or to be thereafter incurred incident to such construction~~
~~or acquisition of such works and property, including~~

~~administrative, engineering and legal expenses, and for the~~
~~assumption, as principal or guarantor, of indebtedness to~~
~~the United States on account of district lands, and for the~~
~~purpose of otherwise carrying out the provisions of this~~
~~act, and of providing a sum sufficient to pay the interest~~
~~on all of such bonds for five (5) years, or less, the board~~
~~of commissioners of any district, heretofore or hereafter~~
~~organized under the provisions of this act, may authorize~~
~~and issue the negotiable coupon bonds of the district, as~~
~~and in the manner hereinafter provided, a sum sufficient to~~
~~redeem or pay all, or any portion, of the existing~~
~~indebtedness of such district, evidenced by outstanding~~
~~bonds, delinquent interest coupons and accrued interest, or~~
~~warrants, together with all delinquent and accrued interest,~~
~~whether such indebtedness be due or not due, or which has or~~
~~may hereafter become payable at the option of the district,~~
~~or by consent of the bondholders, or by any lawful means,~~
~~may be included as a portion of the necessary funds for~~
~~which said bonds are authorized and issued. The board of~~
commissioners of a district established under the provisions
of chapter 12 of Title 89 may authorize and issue negotiable
coupon bonds for the district for the purpose of providing
the necessary funds:

(a) for constructing the necessary irrigation canals
and works, including drainage works, and constructing works

for the generation and distribution of electricity within the district and for acquiring the property and rights necessary therefor;

(b) for acquiring, by purchase or otherwise, waters, water rights, canals, reservoirs, reservoir sites, irrigation works, drainage works, and works for the generation and distribution of electricity, whether such works are constructed or partially constructed;

(c) for meeting the expense incurred incident to the construction or acquisition of such works and property, including administrative, engineering, and legal expenses;

(d) for assuming, as principal or guarantor, indebtedness to the United States on account of district lands;

(e) for providing a sufficient amount of money to pay the interest on all negotiable coupon bonds of the district for a period not exceeding 5 years;

(f) for redeeming or paying all or any portion of the existing indebtedness of the district, evidenced by outstanding bonds; delinquent interest coupons and accrued interest; or warrants, together with all delinquent and accrued interest, whether such indebtedness has or may hereafter become payable at the option of the district, by consent of the bondholders or by any lawful means; or

(g) for otherwise carrying out the provisions of the

irrigation district laws.

(2) No bonds provided for in this section ~~shall~~ may be authorized or issued by or on behalf of any irrigation district organized hereunder, and no contract ~~shall~~ may be made with the United States as provided in ~~section~~ sections 89-1301, ~~provided,~~ except upon a petition signed by at least ~~sixty~~ sixty ~~per centum~~ (60%), in number and acreage, of the holders of title or evidence of title to lands included within ~~said the~~ the district, or by ~~seventy-five per centum~~ at least ~~(75%)~~ (75%), in number and acreage, of the holders of title or evidence of title to such lands who are residents of the county or counties in which lands of the district are situated. ~~Such~~ The petition shall be addressed to the board of commissioners, shall set forth the aggregate amount of bonds to be issued, and the purpose or purposes thereof, ~~shall~~ have attached thereto an affidavit verifying the signatures to ~~said the~~ the petition, and ~~shall~~ be filed with the secretary of the board of commissioners. When bonds, ~~however,~~ are issued for the sole purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent and accrued interest, of such district, such bonds may be authorized and issued in the manner provided for by ~~sections~~ sections 89-1712 and 89-1713.

(3) Upon the filing of ~~such the~~ the petition, the board of commissioners shall, by appropriate order or resolution,

1 authorize and direct the issuance of the bonds of the
 2 district to the amount and for the purpose or purposes
 3 specified in the petition; fix the numbers, denominations,
 4 and maturity or maturities of ~~said the~~ bonds; specify the
 5 rate of interest thereon, and whether payable annually or
 6 semiannually; designate the place of payment of ~~said the~~
 7 bonds and the interest coupons, within or without the state
 8 of Montana; prescribe the form of ~~said the~~ bonds and
 9 interest coupons to be attached thereto; and provide for the
 10 levy of a special tax, or assessment as provided in this act
 11 ~~provided~~ on all the lands in the district for the irrigation
 12 and benefit of which ~~said the~~ district was organized and
 13 ~~said the~~ bonds are issued, or ~~said the~~ contract is to be
 14 made, sufficient in amount to pay the interest on and
 15 principal of ~~said the~~ bonds when due and all amounts to be
 16 paid to the United States under any contract between the
 17 district and the United States, accompanying which bonds of
 18 the district have not been deposited with the United States
 19 as provided in ~~section~~ 89-1301 ~~provided~~.

20 (4) If contract is to be made with the United States
 21 as provided in ~~section~~ 89-1301 ~~provided~~, and bonds are not
 22 to be deposited with the United States in connection with
 23 ~~said the~~ contract, the board of commissioners need not
 24 authorize the issuance of bonds, or if bonds are required in
 25 addition to ~~said the~~ contract, the commissioners may

1 authorize bonds only for the amount needed in addition to
 2 ~~said the~~ contract. Such order or resolution shall also
 3 provide for the confirmation proceedings in the district
 4 court ~~hereinafter mentioned~~ as provided in 89-1704."

5 Section 27. Section 89-1704, R.C.M. 1947, is amended
 6 to read as follows:

7 "89-1704. Confirmation by district court. (1) Within
 8 ~~ten~~ (10) days after the adoption of the order or resolution
 9 mentioned in the preceding section, the board of
 10 commissioners shall file a petition in the district court of
 11 the judicial district ~~wherein~~ where ~~is located~~ the office of
 12 ~~said the~~ board, is located to determine the validity of the
 13 proceedings ~~had~~ relative to the issuance of ~~said the~~ bonds
 14 and ~~to~~ the levy of ~~said the~~ special tax or assessment.

15 (2) Such action shall be in the nature of a proceeding
 16 in rem, and jurisdiction of all parties interested shall be
 17 had by giving notice ~~given as hereinafter provided~~. ~~Such~~ The
 18 petition shall set forth;

19 ~~(1) (a)~~ generally, the establishment and organization
 20 of the district;

21 ~~(2) (b)~~ a certified copy of the petition mentioned in
 22 the preceding section;

23 ~~(3) (c)~~ a certified copy of the order or resolution
 24 mentioned in the preceding section;

25 ~~(4) (d)~~ a prayer for the confirmation of the

proceedings of the board stated in the petition, and for the confirmation of the bond issue and the special tax or assessment levied to pay the bonds and interest thereon.

~~(2)~~ (3) Upon the filing of ~~said~~ this petition in the district court, the court ~~or judge thereof~~ shall fix the time for the hearing of ~~said~~ the petition, which shall ~~may~~ not be less than ~~fifteen~~ (15) days from the date of filing the petition in ~~said~~ the court, and shall order the clerk of the court to give notice of the filing of ~~said~~ the petition and the date of the hearing thereon, by publication at least once a week for ~~two~~ 2 calendar weeks in a newspaper published or of general circulation in the county where the office of the board of commissioners of the district is situated, and also by posting a written or printed copy of such notice in at least three public places in each division of the district, the first of such publications and such posting to be not less than ~~fifteen~~ (15) days prior to the date fixed for ~~said~~ the hearing.

~~(2)~~ (4) ~~Said~~ The notice shall state the substance of the petition and the time and place fixed for the hearing thereon, and that any person interested in or whose rights may be affected by the issuance or sale of ~~said~~ the bonds, ~~or~~ the levy of ~~said~~ the special tax or assessment, or the proceedings had or to be had by the ~~said~~ board of commissioners with respect to ~~said~~ such matters, may, on or

before the day fixed for the hearing of ~~said~~ the petition, ~~deser to or~~ answer ~~said~~ the petition, and may appear at ~~said~~ the hearing and contest the granting of the prayer of ~~said~~ the petition, and the entry of any order of confirmation ~~pursuant thereto~~.

(5) Any person interested in or whose rights may be affected by the issuance or sale of ~~said~~ the bonds, ~~or~~ the levy of ~~said~~ the special tax or assessment, or the proceedings had or to be had by the board of commissioners of the district in connection with ~~said~~ such matters, and the entry of any order of confirmation ~~pursuant thereto~~, may enter his appearance in such proceedings and ~~deser to or~~ answer ~~said~~ the petition and contest the granting of the prayer of ~~said~~ the petition.

~~(4)~~ (6) The provisions of Title 93 respecting the ~~deser or~~ answer to a verified complaint ~~shall be~~ are applicable to a ~~deser or~~ an answer to ~~said~~ the petition. The persons so ~~deser to or~~ answering ~~said~~ the petition ~~shall be~~ are the defendants in the proceeding, and the board of commissioners ~~shall be~~ is the plaintiff. Every material statement of the petition, not specifically controverted by the answer, shall be taken as true, and every holder of title or evidence of title to lands included in the district failing to answer ~~or deser to~~ the petition shall be ~~deemed~~ considered to admit as true all the material statements

1 ~~hereof~~ thereof. The procedure in such action shall be
2 determined by Title 93.

3 ~~(6)(7)~~ Upon the hearing, the district court shall find
4 and determine whether the provisions and requirements of the
5 preceding section have been complied with, and whether
6 notice of the filing of the petition in the district court
7 and of the time and place of the hearing ~~thereon~~ has been
8 duly given for the time and in the manner ~~herein~~ prescribed,
9 and ~~shall have power and jurisdiction to~~ may examine and
10 determine the regularity, legality, and validity of the
11 proceedings ~~had~~ preliminary and relative to the issuance of
12 the bonds, and the levy of the special tax or assessment in
13 the petition mentioned, and the legality and validity of
14 ~~said the~~ bonds and special tax or assessment, and ~~any~~ and
15 all actions taken by the board of commissioners in
16 connection with ~~said such~~ matters, and shall hear all
17 objections filed to ~~said the~~ proceedings, or any part
18 thereof, or to the issuance of ~~said the~~ bonds, or the levy
19 of the ~~said~~ special tax or assessment or any portion
20 thereof. The court, in inquiring into the regularity,
21 legality, and validity of ~~said the~~ proceedings, shall
22 disregard any error, omission, or other irregularity which
23 does not affect the substantial rights of the parties to
24 ~~said the~~ proceedings. The court may ratify, approve, and
25 confirm ~~said the~~ proceedings in whole or in part, and may

1 ratify, approve, and confirm ~~said the~~ bonds and special tax
2 or assessment, and enter its judgment ~~or decree~~ accordingly.

3 ~~(6)(8)~~ From any such judgment ~~or decree~~ an appeal may
4 be taken to the supreme court at any time within ~~ten~~ (10)
5 days from the entry of ~~said the~~ judgment ~~or decree~~. ~~Such the~~
6 appeal shall be taken, perfected, and heard in the manner
7 prescribed by Title 93 covering appeals from district courts
8 to the supreme court. If no such appeal be is taken within
9 ~~the~~ in time ~~aforsaid~~, or if taken and the judgment ~~or~~
10 ~~decree~~ of the district court be is affirmed by the supreme
11 court, ~~said the~~ judgment ~~or decree~~ shall be forever
12 ~~conclusive upon all the world as to the validity of such~~
13 ~~bonds and said special tax or assessment, and the same shall~~
14 ~~never be called into question in any court in the state is~~
15 final. The costs of ~~said the~~ proceedings shall be allowed or
16 apportioned between the parties in the discretion of the
17 court."

18 Section 28. Section 89-1705, R.C.M. 1947, is amended
19 to read as follows:

20 "89-1705. Details relating to bonds. (1) All bonds
21 issued under the provisions of this act ~~shall be payable in~~
22 ~~gold coin of the United States, of the standard weight and~~
23 ~~fineness [fineness] existing at the time of the issue, and~~
24 shall run for a period not longer than ~~forty~~ (40) years from
25 their date, but may contain a clause providing for their

1 prior redemption and payment, at the option of the board of
 2 commissioners of the district, on any interest payment date
 3 after ~~five~~—(5) years from their date. Instead of straight
 4 maturity bonds, bonds may be issued to mature serially at
 5 such times and in such amounts as the board of commissioners
 6 shall determine, but no bonds so issued ~~shall~~ may run for a
 7 longer period than ~~forty~~—(40) years from the date of issue.
 8 ~~Said The~~ bonds shall bear interest from their date until
 9 paid, payable annually or semiannually, with the
 10 installments of interest to date of maturity of principal to
 11 be evidenced by appropriate coupons attached to each bond.
 12 ~~Said The~~ bonds and interest coupons shall be payable at such
 13 place or places, within or without the state of Montana, as
 14 the board of commissioners shall prescribe.

15 (2) ~~Each The~~ bonds shall be of such denomination or
 16 denominations, and in such form, as the board of
 17 commissioners shall prescribe. An issue of bonds is ~~hereby~~
 18 defined to be all the bonds issued in accordance with a
 19 resolution or order of the board of commissioners. Each
 20 issue of the bonds of a district shall be numbered
 21 consecutively as authorized, and the bonds of each issue
 22 shall be numbered consecutively. The board of commissioners
 23 shall fix the date of ~~said the~~ bonds, or they may divide any
 24 issue into two ~~(2)~~ or more divisions and fix different dates
 25 for the bonds of each ~~respective~~ division. The date of any

1 bond must be subsequent to the order or resolution
 2 authorizing it and prior to its delivery to a purchaser from
 3 the district.

4 (3) All bonds issued hereunder shall be signed by the
 5 president and attested by the secretary of the board under
 6 the corporate seal of the district, and each of the interest
 7 coupons to be attached to ~~said the~~ bonds shall be executed
 8 by the signatures of ~~said the~~ president and secretary. Each
 9 bond shall be signed, and each interest coupon shall be
 10 executed, by the president and secretary of the board of
 11 commissioners who may be in office at the date of ~~said the~~
 12 bond and coupons, or at any time thereafter prior to the
 13 delivery of ~~said the~~ bond to the purchaser ~~thereof~~ from the
 14 district.

15 (4) The board of commissioners may provide for the
 16 registration of bonds in their discretion. The secretary of
 17 the board of commissioners and county treasurer, ~~each~~ shall
 18 each keep a record of the bonds sold, or otherwise disposed
 19 of, their date, number, amount, maturity, or maturities,
 20 to whom sold, rate of interest, and the place or places of
 21 payment ~~thereof~~.

22 Section 29. Section 89-1713, R.C.M. 1947, is amended
 23 to read as follows:

24 "89-1713. Purpose of bonds — petition, requirements,
 25 and contents of. (1) ~~may~~ an irrigation district may issue

1 ~~such~~ refunding bonds for the purpose of redeeming or paying
 2 the indebtedness, or any portion thereof, of the district,
 3 whether represented by existing and outstanding bonds,
 4 interest coupons thereof, or warrants, ~~or both~~, including
 5 accrued and unpaid interest on ~~said the~~ bonds, coupons, and
 6 warrants, and whether such indebtedness be is due or not
 7 due, or ~~which~~ has or may hereafter become payable at the
 8 option of the district, ~~or by consent [of]~~ the bondholders
 9 or warrant holders, ~~or both~~, or by any legal means, and
 10 whether such indebtedness be is now existing or may
 11 hereafter be created, and ~~there shall not be~~ funds in the
 12 treasury of ~~such the~~ district are not available for the
 13 payment of the same. ~~Such The~~ refunding bonds may be issued
 14 in one or more series. The petition for ~~such the~~ refunding
 15 bonds, signed, as required by law, by at least ~~sixty per~~
 16 ~~centum~~ (60%) in number and acreage of the holders of title
 17 or evidence of title to the lands included within ~~said the~~
 18 district, and addressed to the board of directors or
 19 commissioners of the district, may contain the following
 20 specifications, in addition to the matters now required by
 21 law, ~~vis-~~:

22 (a) ~~How~~ how many series of bonds shall be issued; and

23 (b) ~~The the~~ terms, conditions, and liens of the ~~said~~
 24 bonds, and the terms and conditions upon which each of ~~said~~
 25 the series of bonds shall be exchanged for outstanding bonds

1 of ~~said the~~ district, if the same are to be exchanged and
 2 not sold, ~~and any such specifications when set forth in the~~
 3 ~~said petition shall be controlling upon the said board of~~
 4 ~~directors or commissioners. The petitioners shall set forth~~
 5 ~~with particularity in such specifications the contract of~~
 6 ~~exchange to be made and they shall have power to include~~
 7 ~~therein any term, requirement, grant, transfer of property~~
 8 ~~or rights, covenant and condition whatsoever that shall be~~
 9 ~~deemed by the said petitioners to be for the best interests~~
 10 ~~of the said district, and that the board of directors or~~
 11 ~~commissioners of the district shall have the power to~~
 12 ~~authorize and direct the issuance of the said bonds~~
 13 ~~accordingly, and to make any such contract, and to bind the~~
 14 ~~irrigation district thereby.~~

15 (2) The specifications provided for in subsection (1),
 16 when set forth in the petition, are controlling upon the
 17 board of directors or commissioners. The petitioners shall
 18 in the specifications set forth the contract of exchange to
 19 be made, with particularity. The contract may include any
 20 term, requirement, grant, transfer of property or rights,
 21 covenant, or condition considered by the petitioners to be
 22 in the best interest of the district. The petition shall
 23 state that the board of directors or commissioners of the
 24 district may authorize and direct the issuance of bonds
 25 according to the specifications of the petition, make any

1 ~~such contract, and bind the irrigation district under the~~
2 ~~contract."~~

3 Section 30. Section 89-1801, R.C.M. 1947, is amended
4 to read as follows:

5 "89-1801. Tax or assessment to pay bonds and interest.

6 (1) All bonds and the interest thereon issued hereunder,
7 and all payments due or to become due to the United States
8 under any contract between the district and the United
9 States, accompanying which bonds of the district have not
10 been deposited with the United States as provided in section
11 89-1301 ~~provided~~, shall be paid by revenue derived from a
12 special tax or assessment levied ~~as hereinafter provided~~
13 upon all the lands included in the district, except upon
14 ~~such those~~ lands as ~~that~~ have been included in ~~such the~~
15 district on account of the exchange or substitution of water
16 under the provisions of section 89-1611, if ~~any~~ there ~~be~~
17 ~~are any, and all the~~ All lands in the district at the time
18 ~~said the~~ bonds are issued, and all lands subsequently
19 included which are so chargeable under the provisions of
20 this act, shall be and remain liable to be taxed and
21 assessed for the payment of ~~said the~~ bonds and interest, and
22 all payments due or to become due to the United States under
23 any contract between the district and the United States,
24 accompanying which bonds of the district have not been
25 deposited with the United States as provided in section

1 89-1301 ~~provided~~.

2 (2) ~~It shall be the duty of the~~ The board of
3 commissioners of the district, in the order or resolution
4 authorizing and directing the issuance of bonds of the
5 district, mentioned in section 89-1703, ~~to~~ shall provide for
6 the annual levy and collection of a special tax or
7 assessment upon all the lands included in the district and
8 subject to taxation and assessment ~~as aforesaid~~, sufficient
9 in amount to meet the interest on ~~said the~~ bonds promptly
10 when and as the same accrues, and to discharge the principal
11 thereof at their maturity, or respective maturities, and to
12 meet all payments due or to become due to the United States
13 under any contract between the district and the United
14 States, accompanying which bonds of the district have not
15 been deposited with the United States as provided in section
16 89-1301 ~~provided~~, at the times such payments by such
17 contract become due and payable. ~~Where~~ When straight
18 maturity bonds are issued, ~~it shall be the duty of~~ the board
19 of commissioners of the district ~~to~~ shall create and
20 maintain a sinking fund sufficient to pay and discharge ~~said~~
21 the bonds at maturity. If ~~said the~~ bonds ~~shall be~~ are issued
22 for ~~twenty~~ {20} years or less, there shall be annually
23 levied for ~~such the~~ sinking fund a special tax or
24 assessment, ~~as aforesaid~~, sufficient to produce a net amount
25 represented by the quotient found by dividing the aggregate

amount of the principal of the bonds by the number of years the bonds have to run; but if ~~said the~~ bonds are issued for more than ~~twenty~~ (20) years, then it shall ~~is~~ not be necessary to levy a special tax or assessment for sinking fund until the ~~twentieth~~ 20th year prior to the maturity of the bonds, at which time and each year thereafter there shall be levied and collected a special tax or assessment sufficient to produce a net sum equal to one-twentieth ~~(1/20)~~ part of the aggregate amount of the principal of the bonds.

(3) A certified copy of such resolution shall be filed with the clerk of the board of county commissioners of each county in which the lands of the irrigation district lie, and the special tax or assessment therein provided for shall be levied and collected as ~~hereinafter~~ prescribed, and when so collected shall, by the county treasurer having custody of the funds of the district, be placed in a special fund and used solely for the payment of all ~~amounts due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as in section 89-1301 provided, and for the payment of the interest on and principal of said bonds when due, so long as any of said bonds or the interest coupons thereto appertaining, remain outstanding and unpaid bonds issued~~

under the provisions of this chapter and interest thereon, so long as any of the bonds or interest coupons remain outstanding and unpaid. Whenever the payments are made for amounts due or to become due to the United States, under a contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in 89-1301, the special fund shall be known as the United States contract fund.

(4) In the event that for any reason ~~any~~ a special tax or assessment ~~hereinafter~~ provided for cannot or shall ~~pay~~ not be levied and collected in time to meet any interest falling due on any bonds issued ~~hereunder~~, then the board of commissioners shall ~~have the power and authority, and it shall be their duty, to~~ provide for and pay such interest when due, either out of any of the funds in hand in the treasury of the district not otherwise appropriated, or by warrants drawn against the next district tax or assessment levied or to be levied. ~~Said~~ ~~These~~ warrants shall be in addition to those mentioned in ~~section~~ 89-1701.

(5) The board of commissioners shall ~~have power and authority to~~ direct the investment of the funds in any bond sinking fund ~~as aforesaid~~, in interest-bearing securities, whenever in their judgment the ~~same~~ investment may be to the best interest of the district. ~~Set all~~ all such securities

1 shall be converted into cash in time to meet the principal
2 on the bonds, payable from such sinking fund promptly at
3 their maturity."

4 Section 31. Section 89-1803, R.C.S. 1947, is amended
5 to read as follows:

6 "89-1803. All irrigable lands chargeable alike. (1)
7 All irrigable lands in each irrigation district, except such
8 lands ~~as have been that are~~ included within ~~such the~~
9 district ~~on account because~~ of the exchange or substitution
10 of water, under the provisions of ~~section~~ 89-1611, shall pay
11 at the same rate for all purposes for which ~~said the~~ lands
12 are charged, ~~providing however, except as otherwise~~
13 ~~provided by law, that there~~ There may be a minimum charge of
14 ~~five dollars (\$5.00)~~ against each separately owned tract of
15 land regardless of its size, as ~~hereinafter~~ provided in
16 ~~section 89-1804, and except that whenever~~ Whenever water
17 used for the irrigation of any lands within an irrigation
18 district ~~shall be~~ is obtained by pumping to different
19 elevations, the cost of maintenance, operation, and pumping
20 to each separate elevation shall be apportioned and levied
21 upon the lands lying under the ditch or ditches running from
22 that particular elevation, in such manner as may be
23 determined fair and equitable by the board of commissioners
24 after considering the facts in each case. ~~Such~~ This
25 apportionment shall be made by the board of commissioners

1 and included each year in the assessment provided for by
2 ~~section~~ 89-1804.

3 (2) The amount of ~~such the~~ assessment for maintenance,
4 operation, and pumping of water to each separate elevation,
5 whenever there are different elevations, shall be determined
6 by the board of commissioners in such manner, and upon such
7 notice to the persons interested in ~~said the~~ district, as
8 ~~said the~~ board in its rules and ~~regulations~~ may provide,
9 ~~and provided further, that where~~ Whenever a contract shall
10 have ~~has~~ been made with the United States, the lands within
11 the district, whether originally included or later annexed
12 to the district, shall pay in accordance with the federal
13 reclamation laws and the public notices, orders, and
14 regulations issued thereunder, and in compliance with any
15 contracts made by the United States with the owners of ~~said~~
16 ~~the~~ lands, and in compliance ~~further,~~ with the contract
17 between the districts and the United States, ~~and provided~~
18 ~~further, that where~~ Whenever the works necessary for the
19 completed project ~~shall be~~ are constructed progressively,
20 over a period of years, and ~~that where~~ whenever a portion of
21 the lands within the district are or can be irrigated ~~one~~ 1
22 year or more before the completion of the entire project,
23 ~~then and in that case, such those~~ lands, so irrigated or
24 that can be so irrigated through the built portion of the
25 project, shall pay for the cost of operating that portion of

the project serving them with irrigation water, and also shall pay such portion of the interest charges as its irrigable area bears to the irrigable area of the entire project, ~~and in case of~~ whenever lands having have appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the districts, the amounts payable shall be equitably apportioned."

Section 32. Section 89-1805, R.C.M. 1947, is amended to read as follows:

"89-1805. Determination Procedure for the determination of irrigable area. (1) For the purpose of determining the number of acres of irrigable lands in each ~~forty-acre 40-acre~~ tract or fractional lot as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or ~~where whenever~~ land shall be is owned in less than ~~forty-acre 40-acre~~ tracts or in less than the platted lot, then ~~against in~~ each such tract) of land in the district, the board of commissioners of any irrigation district ~~organized hereunder established under the provisions of chapter 12 of Title 89,~~ whenever ~~deemed~~ considered advisable and at any time except as otherwise provided, may cause a careful topographical survey and map of ~~said the~~ lands to be made, as well as a specific examination of the character of the soil of each ~~such~~ tract. Upon completion of ~~such the~~ survey and maps, and

examination, the board shall give notice that at a meeting of ~~said the~~ board, to be held at the office of the board on a day to be fixed in ~~said the~~ notice, ~~said the~~ board will determine the irrigable area of each ~~such~~ tract of land in the district and that it will hear and consider any objection on the part of any landowner in the district to ~~such the~~ determination and to adjustment of the irrigable area of ~~said the~~ district or of any lands within any tract or subdivision thereof. It ~~shall not be~~ is not necessary to describe ~~said the~~ tracts in ~~said the~~ notice. ~~Such The~~ notice shall be given by publication, once a week for ~~two 2~~ successive calendar weeks, in a newspaper of general circulation in the county where the office of the board is located, and ~~where whenever~~ lands of any irrigation district lie in more than one county, ~~such the~~ notice shall also be published in a newspaper or newspapers of general circulation in each ~~such~~ county. The last publication of ~~said the~~ notice shall be at least ~~five 5~~ days prior to the date fixed for ~~said the~~ meeting.

(2) At ~~such the~~ meeting, the board shall proceed to determine and fix the number of acres in each tract or subdivision irrigable from the works or proposed works of the district, and shall hear all persons interested who may appear, and shall continue in session from day to day (exclusive of Sundays and legal holidays) as long as may be

1 necessary and until ~~said the~~ determination of irrigable area
 2 ~~shall have been~~ is completed. The board shall hear and
 3 receive all evidence offered, including maps and surveys
 4 caused to be prepared by it as well as maps and surveys
 5 prepared by any owner of lands. Upon such determination,
 6 the irrigable area so fixed shall become, and thereafter be,
 7 the acreage upon which any special tax or assessment shall
 8 be levied, and each irrigable acre shall pay at the same
 9 rate as every other acre of irrigable land in ~~said the~~
 10 district, ~~shall pay and except as otherwise provided by~~
 11 ~~law, any~~ special tax or assessment levied for any
 12 purpose ~~shall be~~ is a lien upon the entire ~~forty-acre~~
 13 ~~40-acre~~ tract or fractional lot as designated by the United
 14 States public survey, or platted lot, if land is subdivided
 15 in lots and blocks (or ~~where whenever~~ land ~~shall be~~ is owned
 16 in less than ~~forty-acre~~ ~~40-acre~~ tracts or in less than the
 17 platted lot, then against each such tract) of land in the
 18 district of which ~~said the~~ irrigable area forms a part, and
 19 ~~said the~~ lien shall attach to ~~said the~~ entire tract as of
 20 ~~the first day of~~ January 1 in the year in which ~~said the~~
 21 special tax or assessment is levied.

22 (3) Upon completing ~~each the~~ determination, the board
 23 shall fix, by appropriate resolution or order, the total
 24 acreage and the irrigable acreage of each ~~each~~ tract or
 25 subdivision, and shall cause to be prepared a list of all

1 lands in ~~said the~~ district, which list shall contain an
 2 accurate description of each ~~each forty-acre~~ ~~40-acre~~ tract
 3 or fractional lot as designated by the United States public
 4 survey, or platted lot, if land is subdivided in lots and
 5 blocks (or ~~where whenever~~ land ~~shall be~~ is owned in less
 6 than ~~forty-acre~~ ~~40-acre~~ tracts or in less than the platted
 7 lot, then ~~against of~~ each such tract) of land in ~~said the~~
 8 district, the total acreage and the number of irrigable
 9 acres therein as so fixed and determined, and the name of
 10 the owner, or holder of title or evidence of title thereof,
 11 ascertained as provided in ~~section~~ 89-1201. ~~Such This~~ list,
 12 when completed and adopted, shall be filed in the office of
 13 the board of commissioners and shall remain there for public
 14 inspection. A certified copy of ~~each the~~ resolution and
 15 list shall be filed with the county clerk and recorder of
 16 each county in which any portion of the lands in ~~said the~~
 17 district are situated, ~~provided, however, there shall be~~
 18 ~~omitted from such copy~~ The lands not situated in the county
 19 in which such copy is filed ~~shall be omitted from the copy.~~

20 (4) No special tax or assessment ~~shall may~~ be levied
 21 against any ~~forty-acre~~ ~~40-acre~~ tract, or fractional lot as
 22 designated by the United States public survey, or platted
 23 lot, if land is subdivided in lots and blocks (or ~~where~~
 24 ~~whenever~~ lands ~~shall be~~ are owned in less than ~~forty-acre~~
 25 ~~40-acre~~ tracts or in less than the platted lot, then against

each such tract) found by ~~said the~~ board to contain no irrigable land; nor ~~shall~~ may any lien created after the order of determination ~~herein provided for~~ attach to any such tract, nor ~~shall~~ may the owner, or owners, of any tract or tracts have any vote or votes in any proceeding or election under the provisions of Chapter 146 of the Laws of 1909, or any amendment thereof, or act supplementary thereto, after the making of such order, unless ~~his said~~ their land, or a portion thereof, be is found by ~~said the~~ board to contain an area irrigable from the works, or proposed works, of ~~said the~~ district.

(5) Upon the determination provided for in this section, the board of commissioners ~~shall have the power to~~ may refund any taxes paid, or cancel any unpaid taxes or assessments, levied upon an acreage in excess of that so fixed by ~~said the~~ order of determination, and ~~where whenever~~ necessary, may issue warrants therefor.

(6) Within ~~sixty~~ 60 days after ~~such the~~ resolution adopting ~~said the~~ list, the board of commissioners may petition the district court for confirmation of their acts in determining the irrigable area, ~~as aforesaid,~~ and in refunding or canceling any taxes or assessments. The majority in number and acreage of the holders of title or evidence of title to lands in ~~said the~~ district, ascertained as provided in this act ~~provided,~~ may, likewise, within such

~~sixty-day~~ 60-day period, petition the district court for review of the actions of the board of commissioners. ~~But~~ However, one of ~~such these~~ proceedings, if prosecuted to determination, ~~shall be is~~ exclusive of the other. Upon such proceeding, the court may order any assessment of taxes upon any land or lands to be reduced or raised according to the irrigable area as found by the court, or taxes previously levied upon any area shown to be excessive, to be refunded or canceled.

(7) The provisions of ~~section 89-1402,~~ regarding the procedure as well as the right and time to appeal, ~~shall apply to any proceeding instituted in pursuance of the provisions of~~ pursuant to this section; provided, ~~however,~~ that nothing in this section ~~shall be deemed or construed to effect or impair~~ affects or impairs the lien of any bonds issued by the district, ~~and provided, further, that if~~ If confirmation proceedings are held and a certified copy of the order of confirmation ~~be is~~ filed with the county clerk and recorder of the county in which any portion of ~~said the~~ lands is situated, it ~~shall not be is not~~ necessary to file in ~~said the~~ office the certified copy of the resolution and order of the board, or of the list, ~~hereinafter~~ provided for in this section.

(8) ~~Provided, however, that where whenever~~ districts have been established in order to ~~co-operate~~ cooperate with

1 the United States under the federal reclamation laws
 2 ~~heretofore or hereafter enacted~~, or under any act of
 3 ~~Congress~~, Congress which shall ~~permit~~ of permits the
 4 performance by the United States of work in this state, for
 5 the purposes of construction of irrigation works, including
 6 drainage works, or for purchase, extension, operation, or
 7 maintenance of construction works, or for the assumption as
 8 principal or guarantor, of indebtedness to the United States
 9 on account of district ~~law~~ lands, the determination of the
 10 irrigable area of the lands in ~~said the~~ district may be made
 11 by the ~~said~~ board of commissioners in the manner provided in
 12 this section ~~provided~~ or by the United States at the option
 13 of the latter, and, if the United States determines the
 14 irrigable area, the proceeding for the apportionment and
 15 distribution of the costs of the proposed works or
 16 improvements, ~~hereinafter~~ provided for in ~~section~~ 89-1806
 17 shall ~~may~~ not be had."

18 Section 33. Section 89-1806, R.C.M. 1947, is amended
 19 to read as follows:

20 "~~89-1806. Determination of irrigable area~~
 21 ~~apportionment and distribution of costs of proposed works or~~
 22 ~~improvements~~ Apportionment of costs when bonds issued. (1)
 23 Whenever a petition for the issuance of bonds of any
 24 irrigation district ~~organized hereunder~~ shall have
 25 established under the provisions of Chapter 12 of Title 89

1 ~~has~~ been filed, as ~~hereinbefore~~ provided in ~~section~~ 89-1703
 2 provided, the board of commissioners of ~~such the~~ district
 3 shall examine, or cause to be examined, each ~~forty-acre~~
 4 40-acre tract or fractional lot as designated by the United
 5 States public survey, or platted lot, if land is subdivided
 6 in lots and blocks (or ~~where whenever~~ land ~~shall be~~ is owned
 7 in less than ~~forty-acre~~ 40-acre tracts or in less than the
 8 platted lot, then ~~against~~ each such tract) of land in ~~said~~
 9 the district, and cause a careful topographical survey and
 10 map to be made, in the manner provided for in ~~section~~
 11 89-1805. Upon such examination, the board shall determine
 12 the number of irrigable acres in each such tract, and shall
 13 apportion and distribute the cost of the works or
 14 improvements for which ~~said the~~ bonds are to be issued, over
 15 the tracts within ~~said the~~ district according to the
 16 irrigable area in each of ~~said the~~ tracts or subdivisions,
 17 so that each such irrigable acre ~~shall be~~ is required to
 18 bear the same burden of such costs as each other irrigable
 19 acre in ~~said the~~ district, ~~and the~~ except as otherwise
 20 provided by law. The special tax or assessment levied to
 21 meet the principal of and interest on ~~said the~~ bonds so
 22 authorized, ~~shall become~~ is a lien upon the entire tract of
 23 which such irrigable area forms a part or portion as of ~~the~~
 24 ~~first day of~~ January 1 of the year in which ~~such the~~ special
 25 tax or assessment is levied, and the number of irrigable

acres in each such tract as so determined ~~shall~~ may not be diminished but may be increased during the term for which any such bonds ~~may be~~ are issued or until the bonds ~~shall be~~ are liquidated in full.

(2) ~~Provided, however, that if whenever~~ a proceeding for the determination, in whole or in part, of the irrigable area of the lands in ~~said the~~ district has already been had, or a topographical survey or maps thereof prepared, or a court confirmation of ~~said~~ prior proceedings had, in part or in full, the ~~said~~ board may, in its discretion, adopt all or such portions of ~~said the~~ prior proceedings, and ~~in such an event, it shall not be necessary to need not~~ cause an additional survey, or maps, or examination, of any of such tracts to be ~~again~~ made, or to redetermine the irrigable area of any such tract.

(3) The board shall make such determination after the hearing ~~had~~ and shall fix the total acreage and the irrigable acreage, and shall cause a list of such irrigable area to be made and filed, and the proceedings of the board in connection with such determination, including ~~said the~~ hearing and notice of ~~said the~~ hearing, and order or resolution fixing the irrigable area and the preparation and filing of ~~said the~~ list, shall conform to the requirements set forth in ~~section~~ 89-1805. At ~~such the~~ hearing, the ~~said~~ board shall also determine the amount and rate per acre

necessary to be levied against each irrigable acre in the district to meet the interest on and principal of ~~said the~~ authorized bond issue, and any tax levied for such purposes ~~shall be~~ is a lien upon the entire tract of which ~~said the~~ irrigable area forms a part. If any landowner in the district ~~shall appear~~ appears before the board at ~~said that~~ time and ~~pay~~ pays in cash the amount fixed against his ~~said~~ land as its proportion of the amount found necessary for the purposes for which ~~said the~~ bonds were authorized and are to be issued, his land shall be excluded from the lien of the bond issue and the amount of bonds intended to be issued shall be reduced by the amount of such payment. Any person interested who ~~shall fail~~ fails to appear before the board at ~~said the~~ meeting ~~shall~~ may not thereafter be permitted to contest the proceedings of ~~said the~~ board, or any part thereof, except upon special application to the court in the proceedings for the confirmation of ~~said the~~ bonds and a showing of reasonable excuse for failure to appear before ~~said the~~ board of commissioners.

(4) In case any such landowner makes objection to the proceedings of ~~said the~~ board in determining the irrigable area in his own or any other tract of land, or the amount or rate per acre of the special tax and assessment to be levied against each irrigable acre in the district for the purposes of the proposed bond issue, and ~~said the~~ objection is

1 overruled by the board, ~~such~~ the objection without further
 2 proceedings shall be regarded as appealed to the district
 3 court, and shall, with the other proceedings of ~~said~~ the
 4 board at ~~said~~ the meeting, be heard at the proceedings to
 5 confirm ~~said~~ the bonds, as provided in ~~section~~ 89-1704, and
 6 when so confirmed, ~~said~~ the order overruling such objection
 7 and confirming the order of the board determining the
 8 irrigable area of each tract of land and apportioning the
 9 cost of the improvement thereto, shall become final,
 10 binding, and conclusive upon ~~said~~ the landowner and upon the
 11 district, unless appealed from as provided in ~~said~~ section
 12 89-1704 provided.

13 (5) ~~Provided, however, that whenever~~ Whenever the
 14 irrigable area of the lands in any irrigation district ~~shall~~
 15 ~~have~~ has been determined and confirmed, no owner or holder
 16 of title or evidence of title to lands in ~~said~~ the district,
 17 during the period of when any bonds thereafter authorized
 18 ~~shall be~~ are issued and outstanding, ~~shall~~ may have the
 19 taxable acreage of his ~~said~~ lands fixed or adjudicated in
 20 the manner provided by ~~sections~~ 89-1404 to through 89-1408,
 21 in such manner or to such extent as to reduce the acreage
 22 subject to the payment of ~~such~~ the bonds or interest
 23 thereon, or in such manner as to affect the security of
 24 ~~such~~ the bonds or interest thereon."

25 Section 34. Section 89-1811, R.C.M. 1947, is amended

1 to read as follows:

2 "89-1811. County treasurer as custodian of district
 3 funds. The county treasurer of the county ~~wherein~~ where the
 4 office of an irrigation district is located ~~shall be~~ is the
 5 custodian of all funds belonging to the district, and he
 6 shall pay out such funds upon the order of the board of
 7 commissioners, except ~~as to~~ payments on bonds and interest,
 8 for which no order ~~shall be~~ is necessary. ~~Where~~ If any
 9 portion of the funds belonging to a district ~~have~~ has been
 10 collected for the purpose of establishing a reserve fund,
 11 the county treasurer shall pay such portion to the district
 12 on order of the district's board of commissioners, who ~~shall~~
 13 ~~have authority to~~ may invest the same in state or federal
 14 bonds or in savings certificates of institutions insured by
 15 the federal deposit insurance corporation. Where moneys of
 16 a district in the United States contract fund established
 17 pursuant to ~~section 89-1809~~ 89-1801(3) are in excess of
 18 those needed to pay a district's next succeeding annual
 19 contract obligation or obligations to the United States,
 20 such excess, or any part thereof, may, upon order of the
 21 district's board of commissioners, and with the consent of
 22 the United States officer administering the contract for
 23 which the contract fund has been established, be paid to the
 24 district for use in meeting other obligations of the
 25 district. Such orders of the board of commissioners shall be

signed by the president and secretary of the board, and shall bear the official seal of the district."

Section 35. Section 89-1816, R.C.M. 1947, is amended to read as follows:

"89-1816. Proceeds of sale. Whenever, ~~pursuant to the provisions of the preceding section,~~ any lot, tract, piece, or parcel of land included within and forming a part of any irrigation district created under the provisions of this chapter, or included within any extension of such district, ~~shall be~~ is sold by the treasurer of the county ~~wherein~~ where such land is situated, in the manner provided by law for the sale of lands for delinquent taxes for state and county purposes, and taxes or assessments of ~~each~~ the irrigation district form all or a part of the taxes for which such lands are sold, ~~it shall be the duty of~~ the county treasurer making such sale or sales ~~to~~ shall place to the credit of the proper funds of such irrigation district, out of the proceeds of ~~each~~ the sale or sales, the total tax or assessment of ~~each~~ the irrigation district, inclusive of the interest and penalty thereon as provided for by the general laws relating to delinquent taxes for state and county purposes, and whenever any such lands are struck off at such sale to the county ~~wherein~~ where ~~the same~~ they are ~~situate,~~ situated pursuant to the provisions of ~~section~~ 84-4124, the county treasurer of ~~each~~ the county must, upon

the issuance of the certificate of tax sale to ~~said~~ the county, issue to ~~said~~ the irrigation district, and in its corporate name, a debenture certificate for the amount of taxes and assessments due to ~~said~~ the irrigation district from ~~said~~ the lands and premises so sold, inclusive of the interest and penalty thereon, which certificate ~~shall be~~ is evidence of and conclusive of the interest and claim of ~~said~~ the irrigation district in, to, against, and upon the lands and premises so struck off to ~~said~~ the county at ~~each~~ the tax sale, and ~~from and~~ after the issuance of ~~said~~ the certificate, the sum named therein and the taxes and assessments of ~~said~~ the district evidenced thereby shall bear interest at the rate of ~~one per centum per~~ 1% a month from the date of ~~said~~ the certificate until redeemed in the manner provided for by law for the redemption of the lands sold for delinquent state and county taxes, or until paid from the proceeds of the sale of the lands and premises described therein, in the manner provided for by ~~section 2235 of these codes~~ law, and duplicates of such certificates so issued to ~~said~~ the irrigation district shall be filed in the office of the county clerk and county treasurer of ~~said~~ the county with the certificate of tax sale of ~~said~~ the lands and premises."

Section 36. Section 89-1819, R.C.M. 1947, is amended to read as follows:

"89-1819. Sale by county commissioners when land not redeemed. When the lands and premises so sold for taxes, and upon and against which the certificates ~~herein provided for~~ have been issued for the taxes and assessments of ~~such the~~ irrigation district, are not redeemed within the time provided for by ~~section 84-4132, it shall be the duty of the~~ board of county commissioners of ~~said the~~ county, within ~~three 3~~ months thereafter, ~~to shall~~ cause ~~said these~~ lands and premises to be sold as provided for by ~~section 2235 of these codes lay~~, and out of the proceeds of the sale, ~~thereof~~ the county treasurer of ~~said the~~ county shall pay to the holder or holders of ~~such the~~ certificates the sum ~~or~~ ~~same~~ for which the same were issued, with interest as ~~therein~~ provided for to the date of ~~said the~~ sale of ~~said the~~ lands by the board of county commissioners, and no lands and premises so held by any county, and against which the certificates provided for by this chapter have been issued, ~~shall pay~~, upon such sale, be struck off or sold for a less sum than the amount of taxes and assessments of ~~said the~~ irrigation district represented by ~~said the~~ certificate, inclusive of the interest thereon, in addition to the state and county taxes, if any, against the same."

Section 37. Section 89-2003, R.C.M. 1947, is amended to read as follows:

"89-2003. Contents of petition. ~~Said The~~ petition of

~~89-2002~~ shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if ~~such there be any~~, together with the general description of ~~the same then~~, showing the amount of each ~~description of~~ described indebtedness and the ownership, so far as known, of the ~~same~~ indebtedness. ~~Said The~~ petition shall also state the assets of ~~said the~~ district, including any irrigation ~~system, if any systems~~, dams, reservoirs, canals, franchises, water rights, and other property; and in case any proposition has been made by the holders of ~~said the~~ indebtedness to settle the ~~same indebtedness~~, ~~said this~~ proposition, together with any plan proposed to carry the ~~same~~ proposition into execution, shall be included in ~~said the~~ petition."

Section 38. Section 89-2109, R.C.M. 1947, is amended to read as follows:

"89-2109. Interpretation of ~~act title~~. The object of this ~~act being to secure the irrigation of lands of the state, and thereby title is~~ to promote the prosperity and welfare of the people, ~~its provisions shall be liberally construed so as to effect the objects and purposes herein set forth of Montana through the sound management of the state's water resources, and its provisions are to be given a liberal interpretation.~~"

Section 39. Section 89-2126, R.C.M. 1947, is amended to read as follows:

"89-2126. ~~Court to approve contracts~~ United States contracts — court approval required. The board of commissioners of any irrigation district, before the making of any contract with the United States hereunder, shall commence a special proceeding in the district court of the state, ~~in~~ and by which the proceedings of the board and of ~~said the~~ district leading up to the making of any such contract and the validity of the terms thereof shall be judicially examined, and approved and affirmed, or disapproved ~~or~~ and disaffirmed."

Section 40. Section 89-2203, R.C.M. 1947, is amended to read as follows:

"89-2203. Amendment and circulation of petition—~~circulation~~ — court consideration ~~by court~~. No petition having as many signers as are required by ~~this~~ ~~section 89-2201~~ shall may be declared void, but the court may at any time permit the petition to be amended in form and substance to conform to the facts, if the facts justify the organization of a drainage district. Several similar petitions for the organization of the same district may be circulated, and, when filed, together shall ~~together~~ be regarded as one petition having as many signers as there are separate adult signers on the several filed petitions ~~filed~~, who own lands within ~~said the~~ proposed drainage district. All petitions for the organization of ~~said the~~ district

filed prior to the hearing on ~~said the~~ petition shall be considered by the court, the same as if filed with the first petitions placed on file, and the signatures thereon ~~contained~~ shall be counted in determining whether sufficient landowners have signed ~~said the~~ petition."

Section 41. Section 89-2302, R.C.M. 1947, is amended to read as follows:

"89-2302. Election of commissioners — ~~terms~~ regular term of office. (1) The regular election of commissioners shall be held annually on the first Tuesday in April of each year; the term of office of commissioners shall commence on the first Tuesday in May following their election. At the first regular election following the organization of a district, and in districts ~~heretofore~~ organized and in existence on ~~the date when this act takes effect~~ March 1, 1921, and which, on petition, ~~has~~ have been divided into divisions, ~~as heretofore provided~~, at the first regular election following the date of the order making such division, there shall be elected three commissioners, one commissioner being elected from each division of which he must be an actual landowner ~~and resident of the county or counties~~; one of ~~each the~~ commissioners, to be determined by lot, shall hold office until the first Tuesday in May in the year following his election, another of ~~each the~~ commissioners, to be determined by lot, shall hold office

1 until the first Tuesday in May in the second year following
 2 his election, and the third of ~~each~~ the commissioners shall
 3 hold office until the first Tuesday in May in the third year
 4 following his election; thereafter one commissioner shall be
 5 elected each year, who shall hold office for a term of ~~three~~
 6 3 years and until his successor is elected and qualified;
 7 provided, that the person elected as a commissioner in each
 8 year to succeed the commissioner whose term is then expiring
 9 must be elected as a commissioner from the same division as
 10 the commissioner whom he is to succeed.

11 (2). Each commissioner must be a resident of a county
 12 where a portion of the district lands are situated."

13 Section 42. Section 89-2348, R.C.M. 1947, is amended
 14 to read as follows:

15 "~~89-2348. Assessments for construction~~ Construction
 16 assessments — annual installment. At the time of the
 17 confirmation of ~~such the~~ the assessments as provided in 89-2342,
 18 ~~it shall be competent for the court to may~~ order the
 19 assessment for construction of new work, to be paid in not
 20 more than ~~fifteen~~ {15} annual installments, of such amounts
 21 and at such times as will be convenient for the
 22 accomplishment of the proposed work, or for the payment of
 23 the principal and interest of such notes or bonds of ~~said~~
 24 the district, as the court ~~shall grant~~ grants authority to
 25 issue, for the construction of new work. The court shall

1 also, by such order, fix a date on which the first
 2 installment of the assessments for construction shall become
 3 due, not more than ~~five~~ {5} years after the date of the
 4 order, and each of ~~said the~~ the installments shall draw interest
 5 at the rate fixed by the court in accordance with law from
 6 the date of ~~said the~~ the order."

7 Section 43. Section 89-2411, R.C.M. 1947, is amended
 8 to read as follows:

9 "~~89-2411. Omissions how corrected~~ Correction of
 10 omissions. Omission to assess benefits, ~~or~~ to assess for
 11 construction, ~~or~~ to make additional assessments, or to make
 12 assessment for repairs, ~~or~~ to award damages to any one or
 13 more tracts of land or easements in a drainage district, or
 14 to assess benefits, ~~or to assess for construction, or to~~
 15 assess for repairs, or ~~to~~ make additional assessments
 16 against any corporation which should have been assessed,
 17 ~~shall neither does not~~ shall not affect the jurisdiction of the court
 18 to confirm the report ~~or~~ or to render the benefits
 19 assessed, ~~or the assessments for construction, or additional~~
 20 assessments, or assessments for repairs against other lands,
 21 or assessments against any corporation voidable, but the
 22 commissioners of ~~said the~~ the drainage district shall
 23 thereafter, as soon as they discover the omission, or as
 24 soon as they have notice thereof, either agree with the
 25 omitted parties upon the proper assessments and award the

damages or assess such benefits, make such assessments for construction, and make such additional assessments against the omitted lands and corporations, and award such damages as ~~shall be~~ are just, and report the facts, together with such assessments and awards, to the court."

Section 44. Section 89-2701, R.C.M. 1947, is amended to read as follows:

"89-2701. Continuation of existing districts. All drain districts of the state of Montana, organized prior to ~~the enactment of sections 89-2201 to 89-2502 and sections 89-2801 to 89-2820, inclusive March 1, 1921,~~ and continued in existence pursuant to section ~~89-2820~~ 100, Chapter 129, Laws 1921, shall continue their existence as drain districts under and pursuant to all of the provisions of ~~said sections~~ drainage district laws, and the commissioners of such drain districts shall have all the power and authority conferred by ~~said sections~~ the drainage district laws upon the commissioners of drainage districts ~~organized under such sections."~~

Section 45. Section 89-2711, R.C.M. 1947, is amended to read as follows:

"89-2711. Rules of practice applicable. The same rules relative to the filing of ~~answers,~~ answers and replies ~~which now exist~~ relative to other causes of action affecting the title to real property shall apply in actions to exclude

lands from a drainage district, and all issues arising may be tried by the court without a jury."

Section 46. Section 89-2810, R.C.M. 1947, is amended to read as follows:

"89-2810. Assessments against annexed lands. ~~Said~~ The commissioners shall, after the time for appeal is past, assess against each parcel, tract, and easement of ~~said~~ the annexed lands reasonable and just benefits, and shall assess against ~~said~~ these lands for construction and repairs such sums as ~~shall be~~ are just. If lands similarly situated and benefited are found in ~~said~~ the district, the annexed lands shall be assessed a like sum of benefits and damages as ~~said~~ the similar lands in the ~~said~~ district to which they are sought to be annexed, and a sum for construction of ~~said~~ the work, which shall be equal to all sums assessed, for the complete construction of the drainage system in the district to which they are sought to be annexed against lands having the same assessment of benefits in ~~said~~ the district."

Section 47. Section 89-2926, R.C.M. 1947, is amended to read as follows:

"89-2926. Waste and contamination of ~~ground-water~~ groundwater prohibited ~~exception duties of department.~~ (1) No ~~ground-waters~~ groundwater shall ~~may~~ be wasted without ~~beneficial use.~~ The department shall require all wells producing waters which contaminate other waters to be

1 plugged or capped. It shall also require all flowing wells
2 to be so capped or equipped with valves that the flow of
3 water can be stopped when the water is not being put to
4 beneficial use. Likewise, both flowing and nonflowing wells
5 shall be so constructed and maintained as to prevent the
6 waste, contamination, or pollution of ~~ground-waters~~
7 groundwater through leaky casings, pipes, fittings, valves,
8 or pumps either above or below the land surface, provided,
9 however, in the following cases the withdrawal or use of
10 ~~ground-water~~ groundwater shall not be construed as waste
11 under this act:

12 ~~(1)(a)~~ the withdrawal of reasonable quantities of
13 ~~ground-water~~ groundwater in connection with the
14 construction, development, testing, or repair of a well or
15 other means of withdrawal of ~~ground-waters~~ groundwater:

16 ~~(2)(b)~~ the inadvertent loss of ~~ground-water~~
17 groundwater owing to breakage of a pump, valve, pipe, or
18 fitting, if reasonable diligence is shown by the person in
19 effecting the necessary repair;

20 ~~(3)(c)~~ the disposal of ~~ground-water~~ groundwater
21 without further beneficial use that must be withdrawn for
22 the sole purpose of improving or preserving the utility of
23 land by draining the same, or that must be removed from a
24 mine to permit mining operations or to preserve the mine in
25 good condition;

1 ~~(4)(d)~~ the disposal of ~~ground-water~~ groundwater used
2 in connection with ~~production, for reduction~~ producing,
3 reducing, smelting, and milling metallic ores and industrial
4 minerals, or that displaced from an aquifer by the storage
5 of other mineral resources.

6 ~~(2)~~ The department at any time may hold a hearing on
7 its own motion, or upon petition signed by a representative
8 body of users of ~~ground-water~~ groundwater in any area or
9 subarea, to determine whether the water supply within such
10 area or subarea is used in compliance with this act."

11 Section 48. Section 89-2929, R.C.M. 1947, is amended
12 to read as follows:

13 "89-2929. Reports ~~to be in addition to other reports~~
14 ~~required by water well drillers.~~ The forms, reports, and
15 information required to be ~~filled~~ [filed] by this act shall
16 ~~be~~ are in addition to all other reports and information
17 which the drillers of water wells in the state of ~~Montana~~
18 are required by law to file with agencies of the state of
19 ~~Montana.~~"

20 Section 49. Section 89-3425, R.C.M. 1947, is amended
21 to read as follows:

22 "89-3425. Challenging voters ~~oath penalty for false~~
23 ~~subscription.~~ An elector may challenge any person who claims
24 the right to vote. Before voting, any person challenged must
25 take and sign the following oath or affirmation administered

1 by an election judge:

2 "I(name) solemnly swear (or affirm) that I am an
3 elector of the district and have not voted today." False
4 subscription to the oath or affirmation is ~~perjury and~~
5 ~~punishable as such is false swearing and is punishable as~~
6 provided in 94-7-203."

7 Section 50. Section 89-3449, R.C.M. 1947, is amended
8 to read as follows:

9 "89-3449. Other agencies not affected. The provisions
10 of this act ~~shall not be construed to, do not in any manner,~~
11 abrogate or limit in any manner the rights, powers, duties,
12 and functions of the department, ~~conservation commission,~~
13 conservation districts, department of health and
14 environmental sciences, or the fish and game commission, but
15 ~~shall be held to be~~ are supplementary thereto and in aid
16 thereof."

17 Section 51. Severability. If a part of this act is
18 invalid, all valid parts that are severable from the invalid
19 part remain in effect. If a part of this act is invalid in
20 one or more of its applications, the part remains in effect
21 in all valid applications that are severable from the
22 invalid applications.

23 Section 52. Repealer. Sections 89-128, 89-1901, and
24 89-2818, R.C.M. 1947, are repealed.

-End-

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LC 0049

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 26

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING
TO WATER USE AND REPEALING SECTIONS 89-128, 89-1901, AND
89-2818.

(This summary does not include discussion of routine form or
grammatical changes.)

Section 1. 89-105. In subsection (2) an incorrect
reference to "this section" is deleted as erroneous and
superfluous. The phrase "whenever an association is
involved" is added to 89-105(2) to indicate that the section
applies when a water user association is not involved (in
which case securing approval of such an association would
be impossible). In 89-105(3) the reference to investigation
is deleted as it is covered by 89-132.1, which deals with
the state water plan.

Sections 2 and 3. 89-115 and 89-401. Section 89-115(5)
provides that income from operation of a water project goes
into the general fund (a 1973 amendment which replaced water
fund by general fund). This conflicts with 89-401, which
provides for income being placed in appropriate earmarked
funds. Since the 1973 amendments to 89-115 are more recent
they should prevail and with this in mind the reference to
the general fund was deleted from 89-115 and 89-401 was re-
written to accommodate the change.

Section 4. 89-125. Subsection (7) is deleted. As en-
acted in 1933 it related to water laws at that time and with
the new water permit system the subsection is obsolete.

Section 5. 89-319. Subsection (1) of the amendment
inserts a sentence which was erroneously dropped.

Section 6. 89-823. The reference to "inch", with respect to measurement of water, is changed to "cubic foot of water per second" (c.f.s.) because of 89-817.

Sections 7 and 8. 89-867 and 89-2911. The definitional sections are amended so that the surface and ground water codes can be brought together. The restrictions on use of water for transportation are added to 89-2911(d).

Sections 9 and 10. 89-899 and 89-2930. A sentence permitting the Department of Natural Resources and Conservation (DNR) to employ legal counsel is added. The purpose is to permit the creation of one section under recodification so that the surface and ground water laws can be combined.

Section 11. 89-907. The reference to 89-810 is deleted as this section was repealed in 1973. As the amended section reads, an applicant would list any notice of appropriation filed with the clerk and recorder.

Section 12. 89-911. In the proviso, "shall" is changed to "does" to indicate that the exemption of the section is conditional and not that reservoirs must be less than 20 acre-feet.

Section 13. 89-1015. The phrase "in the premises" is deleted. It is a relic of older legal jargon and is confusing in light of present day terminology.

Section 14. 89-1202. The awkward phraseology in connection with determining the proper court for filing the petition is revised to be clearer.

Section 15. 89-1204. The section is extensively rewritten for clarity.

Section 16. 89-1205. The section is rewritten for clarity, and the bonding amount requirements are deleted, as they are superseded by 89-1208 according to an opinion of the Attorney General (Vol. 14, page 119).

Section 17. 89-1208. The penalty provision is keyed to the official misconduct section of the criminal code. The penalty at present would stay the same but changes in the criminal code would be reflected in 89-1208.

Section 18. 89-1220. The word "present" is deleted since its presence would necessitate a constant reference to statutes in existence at the date 89-1220 was enacted. The apparent intent was simply not to conflict with other irrigation district laws.

Section 19. 89-1311. In (1)(c), reference to a duly "organized" agent of a corporation is changed to "authorized". The original act had "authorized", and apparently by error it was changed to "organized".

Section 20. 89-1319. As it stood, this one sentence section lacked a verb. It has been rewritten to remedy this situation.

Section 21. 89-1320. Use of "inch" to measure water is changed to "c.f.s." to comply with 89-817.

Section 22. 89-1322. "Inch" is changed to "c.f.s." and the word "proposed" (by law) is changed to "imposed" (by law), for clarity.

Section 23. 89-1411. The references to "official" newspaper are changed to a paper of "general circulation". Declaring one newspaper as the official county newspaper may have consequences with respect to freedom of the press.

Section 24. 89-1616. The section is rewritten to incorporate the language of the criminal code. Note that the penalty appears to be substantially increased. This is illusionary, however, since under the present 89-1616 one could still be prosecuted under Title 94 if the conduct violated the criminal code.

Sections 25 and 52. 89-1701 and 89-1901. Section 89-1901 is repealed and 89-1701 is extensively rewritten to combine the provisions on limitations on indebtedness.

Section 26. 89-1703. Subsection (1) is considerably rewritten for clarity.

Section 27. 89-1704. The references to "demurrer" and "demur" are deleted as they are obsolete under the new Rules of Civil Procedure.

Section 28. 89-1705. The provisions relating to the gold standard are deleted. They seem inappropriate at present with the United States off the gold standard.

Section 29. 89-1713. The last portion of the section is rewritten for clarity.

Section 30. 89-1801. Subsection (3) is rewritten to provide a definition of the "United States contract fund", which is referred to elsewhere. The special fund referred to is enlarged to encompass amounts due in general and not just to the federal government.

Sections 31, 32, 33. 89-1803, 89-1805, 89-1806. The phrase "except as otherwise provided by law" is added to make clearer the fact that different lands may bear different charges.

Section 34. 89-1811. The section refers to a United States contract fund established pursuant to 89-1809. This is not the correct sectional reference; 89-1809 is replaced by 89-1801(3) where the fund referred to is defined.

Sections 35 and 36. 89-1816 and 89-1819. The references to section 89-2235 are replaced by "law". Section 89-2235 was repealed in 1941 and by using "law" the various modes of selling county tax lands are made available.

Section 37. 89-2003. "Description of" is replaced by "Described" for clarity.

Sections 38 and 52. 89-128, 89-2109, 89-2818. The object of this amendment is to create a general "liberal interpretation" section for the entire title rather than to have several such sections for various chapters (89-2109 is amended, the other sections repealed).

Section 39. 89-2126. The "or" connecting disapproved and disaffirmed is changed to "and", in order to parallel the structure for approved and affirmed.

Section 40. 89-2203. The reference to "this section" is deleted, as 89-2201 is the section which imposes the requirements on the number of signers of the petition.

Section 41. 89-2302. The requirement that a commissioner be a resident of county containing some portion of district lands is rewritten for clarity.

Section 42. 89-2348. Since there are several types of assessments discussed, a reference to a specific section (89-2342) is added for clarity.

Section 43. 89-2411. The words "they have" are added for grammar and clarity, with reference to notice by the commissioners.

Section 44. 89-2701. The amendment will give the commissioners of older drainage districts the same powers as those of more recent districts.

Section 45. 89-2711. The reference to "demurrers" is deleted because of the new Rules of Civil Procedure.

Section 46. 89-2810. In the phrase "easement of and said", "and said" is deleted for clarity.

Section 47. 89-2926. The phrase "without beneficial use" is deleted from the first sentence. As it read, there was a problem with both waste and beneficial use "coexisting".

Section 48. 89-2929. "Filled" is changed to "filed" to correct an error.

Section 49. 89-3425. The penalty provisions are amended to coincide with the criminal code.

Section 50. 89-3449. The reference to "conservation commission" is deleted as this commission no longer exists and its work is carried out by the Department of Natural Resources and Conservation.

Section 51. Severability.

Section 52. Repealer. See the comments for sections 25 and 38.

COMMITTEE ON NATURAL RESOURCES

SENATE BILL NO.	ENTERED COMM. 1977	DATE CONSIDERED 1977	OUT OF COMM. 1977	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
2	Jan 3	1/11 1/13	1/13			1/13/77			
26	" 3	1/11 1/13	1/13	1/13					
110	" 15	1/27	1/27	1/27					
128	" 18	1/25	1/25			1/25/77			
135	" 18	1/25	1/25			1/25/77			
235	Feb 3	2/15	2/19		AS AMEND. 2/19/77				
241	Jan 31	2/5/77	2/12			2/12/77			
247	Jan 24	2/12	2/16			2/16/77			
257	Jan 31	2/5	2/12						
268	Jan 25	2/3	2/3	2/3					
284	Jan 26	2/8	2/16	2/16					
295	Jan 26	2/1	2/16	Tabled					
297	Jan 26	2/3	2/3		2/3/77				
298	Jan 26	2/16	2/16	2/16					
302	Jan 26	2/1 & 2/10	2/12	2/12					
317	Jan 27	2/17	2/19		AS AMEND 2/19/77				
324	Jan 28	2/16	2/16	2/16					

(U Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

January 11, 1977

The first meeting of the Natural Resources Committee was called to order by Senator Elmer Flynn, Chairman, at 9:30 a. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Galt. Chairman Flynn introduced the Committee Secretary.

Senator Flynn then introduced Eileen Shore and Tala Skari of the Environmental Quality Council. Mr. Larry Weinberg, of the Legislative Council, was also introduced.

CONSIDERATION OF SB 26: An Act to generally revise and clarify the laws relating to water use.

Mr. Larry Weinberg, Staff Attorney from the Legislative Council working with the Natural Resources Committee, reviewed Senate Bill No. 26. He stated that in going through various codes numerous problems arise in the present codes. The same material is said in different places, material which is obsolete. This bill is to clean up the material. He stated that they were recodifying the present water codes. He also said that SB 26 tries to clear up problems which they couldn't clear up by simply rearranging the material. Pamphlet on Recodification of the Laws Relating to Water Use was handed out to Committee members. (Attached)

At this time it was decided by the Committee that Mr. Weinberg would explain the highlights of the bill. Mr. Weinberg then explained the bill Section by Section. (See Attachment #1)

Mr. Weinberg did say that the Department of Natural Resources would like on Page 2 on Line 14 after the underlined word "involved" to see the following words inserted "and has a water marketing contract with the department".

Senator Smith then questioned Section 2, Line 25, stating that water in the state is property of the State of Montana. Mr. Weinberg said yes, this was true.

Regarding Section 5, on Page 11, Senator Manley stated that he was involved in a project right now like this and this would be rather expensive as they are all in inches. He wondered if this wouldn't be a rather serious problem. Mr. Weinberg stated that he didn't think that would matter.

Senator Flynn also stated that he deals in inches all the time in a Stock Company. He said if we choose not to go to acre feet would they be in violation. Mr. Weinberg stated that technically you wouldn't be in violation yet. He said he would suggest another bill if you don't like it in inches.

Senator Flynn wondered how much inconvenience to corporations it would be to those using inches. Mr. Weinberg said if you could afford an \$8.95 calculator it would work out.

Senator Flynn asked if there would be anything wrong to where a company could have their choice. Mr. Weinberg said that is a substitute amendment and that they were hoping to keep those kind of amendments out of here. Senator Flynn stated that it kind of strikes him that miner's inches is status quo now - not acre feet.

Senator Dover wanted to know how much of a problem it would be to change this back to inches. Mr. Weinberg said it is no big problem if someone wants to.

Senator Smith stated that in his area they are talking about potash developing. He wondered how this would be affected. Does this only pertain to coal? Mr. Weinberg said as it reads now it would not include potash.

Senator Flynn said by "slurry" you mean just coal. Mr. Weinberg said as it reads now, yes.

Pertaining to the definitions under Section 7 Senator Smith wondered in this change what the problem would be for someone to drill a well for livestock use.

Mr. Weinberg said that he thought they had the same difference in mind. For some reason they used "sought" in one and "obtained" in the other. He said in recodification he can't make a substitute change.

Senator Smith said that that's why I ask that question. We have had this problem before the Department of Natural Resources and we would have to have a permit to even drill a livestock well. I want to be real careful in making it this way. Mr. Weinberg stated that he thought on division on wells there had been no change.

Mr. Gordon McGowan, of the Montana R. R. Association, a visitor, stated that you don't have to have a permit for less than 100 gallons per minute.

Senator Smith said that he just wanted to be real sure.

After further discussion, Senator Smith moved to delay action on Senate Bill No. 26 until the end of the week. Motion was seconded by Senator Dover and carried unanimously.

HOUSE MEMBERS

ROBERT L. MARKS
CHAIRMAN

FRANCIS BARDANOJIVE

OSCAR KVAALEN

PAT MC KITTRICK

ROSE WEBER
EXECUTIVE DIRECTOR

PAMELA DIJENSING
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
SUPERVISOR, ALTER SYSTEM



Montana Legislative Council

State Capital

Helena, 59601

SENATE MEMBERS

NEIL J. LYNCH
VICE CHAIRMAN

GLEN DRAKE

CARROLL GRAHAM

FRANK HAZELBAKER

DIANA DOWLING
DIRECTOR, LEGAL COUNSEL
CODE COMMISSIONER

ROBERT PERSON
DIRECTOR, RESEARCH

LC 0049

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 26

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE AND REPEALING SECTIONS 89-128, 89-1901, AND 89-2818.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 89-105. In subsection (2) an incorrect reference to "this section" is deleted as erroneous and superfluous. The phrase "whenever an association is involved" is added to 89-105(2) to indicate that the section applies when a water user association is not involved (in which case securing approval of such an association would be impossible). In 89-105(3) the reference to investigation is deleted as it is covered by 89-132.1, which deals with the state water plan.

Sections 2 and 3. 89-115 and 89-401. Section 89-115(5) provides that income from operation of a water project goes into the general fund (a 1973 amendment which replaced water fund by general fund). This conflicts with 89-401, which provides for income being placed in appropriate earmarked funds. Since the 1973 amendments to 89-115 are more recent they should prevail and with this in mind the reference to the general fund was deleted from 89-115 and 89-401 was re-written to accommodate the change.

Section 4. 89-125. Subsection (7) is deleted. As enacted in 1933 it related to water laws at that time and with the new water permit system the subsection is obsolete.

Section 5. 89-319. Subsection (1) of the amendment inserts a sentence which was erroneously dropped.

Section 6. 89-823. The reference to "inch", with respect to measurement of water, is changed to "cubic foot of water per second" (c.f.s.) because of 89-817.

Sections 7 and 8. 89-867 and 89-2911. The definitional sections are amended so that the surface and ground water codes can be brought together. The restrictions on use of water for transportation are added to 89-2911(d).

Sections 9 and 10. 89-899 and 89-2930. A sentence permitting the Department of Natural Resources and Conservation (DNR) to employ legal counsel is added. The purpose is to permit the creation of one section under recodification so that the surface and ground water laws can be combined.

Section 11. 89-907. The reference to 89-810 is deleted as this section was repealed in 1973. As the amended section reads, an applicant would list any notice of appropriation filed with the clerk and recorder.

Section 12. 89-911. In the proviso, "shall" is changed to "does" to indicate that the exemption of the section is conditional and not that reservoirs must be less than 20 acre-feet.

Section 13. 89-1015. The phrase "in the premises" is deleted. It is a relic of older legal jargon and is confusing in light of present day terminology.

Section 14. 89-1202. The awkward phraseology in connection with determining the proper court for filing the petition is revised to be clearer.

Section 15. 89-1204. The section is extensively rewritten for clarity.

Section 16. 89-1205. The section is rewritten for clarity, and the bonding amount requirements are deleted, as they are superseded by 89-1208 according to an opinion of the Attorney General (Vol. 14, page 119).

Section 17. 89-1208. The penalty provision is keyed to the official misconduct section of the criminal code. The penalty at present would stay the same but changes in the criminal code would be reflected in 89-1208.

Section 18. 89-1220. The word "present" is deleted since its presence would necessitate a constant reference to statutes in existence at the date 89-1220 was enacted. The apparent intent was simply not to conflict with other irrigation district laws.

Section 19. 89-1311. In (1)(c), reference to a duly "organized" agent of a corporation is changed to "authorized". The original act had "authorized", and apparently by error it was changed to "organized".

Section 20. 89-1319. As it stood, this one sentence section lacked a verb. It has been rewritten to remedy this situation.

Section 21. 89-1320. Use of "inch" to measure water is changed to "c.f.s." to comply with 89-817.

Section 22. 89-1322. "Inch" is changed to "c.f.s." and the word "proposed" (by law) is changed to "imposed" (by law), for clarity.

Section 23. 89-1411. The references to "official" newspaper are changed to a paper of "general circulation". Declaring one newspaper as the official county newspaper may have consequences with respect to freedom of the press.

Section 24. 89-1616. The section is rewritten to incorporate the language of the criminal code. Note that the penalty appears to be substantially increased. This is illusory, however, since under the present 89-1616 one could still be prosecuted under Title 94 if the conduct violated the criminal code.

Sections 25 and 52. 89-1701 and 89-1901. Section 89-1901 is repealed and 89-1701 is extensively rewritten to combine the provisions on limitations on indebtedness.

Section 26. 89-1703. Subsection (1) is considerably rewritten for clarity.

Section 27. 89-1704. The references to "demurrer" and "demur" are deleted as they are obsolete under the new Rules of Civil Procedure.

Section 28. 89-1705. The provisions relating to the gold standard are deleted. They seem inappropriate at present with the United States off the gold standard.

Section 29. 89-1713. The last portion of the section is rewritten for clarity.

Section 30. 89-1801. Subsection (3) is rewritten to provide a definition of the "United States contract fund", which is referred to elsewhere. The special fund referred to is enlarged to encompass amounts due in general and not just to the federal government.

Sections 31, 32, 33. 89-1803, 89-1805, 89-1806. The phrase "except as otherwise provided by law" is added to make clearer the fact that different lands may bear different charges.

Section 34. 89-1811. The section refers to a United States contract fund established pursuant to 89-1809. This is not the correct sectional reference; 89-1809 is replaced by 89-1801(3) where the fund referred to is defined.

Sections 35 and 36. 89-1816 and 89-1819. The references to section 89-2235 are replaced by "law". Section 89-2235 was repealed in 1941 and by using "law" the various modes of selling county tax lands are made available.

Section 37. 89-2003. "Description of" is replaced by "Described" for clarity.

Sections 38 and 52. 89-128, 89-2109, 89-2818. The object of this amendment is to create a general "liberal interpretation" section for the entire title rather than to have several such sections for various chapters (89-2109 is amended, the other sections repealed).

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Section 51. Severability.

Section 52. Repealer. See the comments for sections 25 and 38.

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

January 13, 1977

The second meeting of the Natural Resources Committee was called to order by Vice-Chairman George Roskie, at 9:30 a. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Elmer Flynn, Chairman.

Mr. Larry Weinberg, Staff Attorney of the Legislative Council was present. Tala Skari, of the Environmental Quality Council, and Mr. Bob Biggerstaff, of the Montana Association of Conservation Districts, were also present.

Senator Roskie asked the Committee what their pleasure was with regard to Senate Bill No. 2 and Senate Bill No. 26 on which action was delayed at the previous meeting.

DISPOSITION OF SB 2: Senator Jergeson said that he thought the Committee could act on Senate Bill No. 2. Senator Jergeson moved that Senate Bill No. 2 be amended as follows: Amend Page 13, Section 8, Line 10, following word "granted" by striking the word "in" and inserting the word "at" to clarify the intent of that section. The motion was seconded by Senator Dover and carried unanimously.

Motion was made by Senator Dover that we accept Senate Bill No. 2 as amended and that the bill AS SO AMENDED, DO PASS. Motion was seconded by Senator Devine and carried unanimously.

Senator Manley added that the recodification of this bill does not have any effect on his problem.

DISPOSITION OF SB 26: Senator Roskie briefly reviewed the previous discussion of this bill.

Mr. Larry Weinberg, Staff Attorney of the Legislative Council, briefly explained the bill further.

Senator Smith said that it looks like something should be done legislative wise instead of recodification.

Senator Galt stated that was his feeling also.

Senator Roskie said that he was inclined to agree.

After further discussion, Senator Smith moved that Senate Bill No. 26 DO PASS. The motion was seconded by Senator Dover and motion carried unanimously.

STANDING COMMITTEE REPORT

.....January 13..... 1977.....

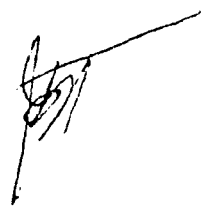
MR.PRESIDENT.....

We, your committee onNATURAL RESOURCES.....

having had under considerationSENATE..... Bill No. 26.....

Respectfully report as follows: ThatSENATE..... Bill No. 26.....

DO PASS



JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 513	relating to the carrying and disposing of concealed weapons, etc.	1-25	Gilligan	Tuesday 1st	do pass	2-7
HB 200	60 days notice be given to the defendant in an action for professional negligence before a complaint may be filed.	1-25 referred from Bs & In	Fagg	Weds 2nd	do not pass	2-22
HB 355	providing for a driver rehabilitation advisory council etc.	1-26	Gould	Monday 31st	sub-committee Weds 26 do pass	2-11
HB 532	state funding of operating expenses for district courts salaries and conditions of employment etc.	1-26	Dussault	Thurs 3rd	do pass	2-7
SB 92	revise statutes governing state law library, removing state auditor & sec. of st. from board of trustees, etc.	1-26	Thiessen	March 7 Monday	CONCURRED IN	3-7
SB 26	to revise and clarify the laws relating to water use.	1-26	Graham	Mon 7th	"WATER" do pass as amended	2-17

JUDICIARY COMMITTEE
February 7, 1977

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully in room 436 of the Capitol Building, Helena, Montana, on Monday at 8:00 a.m. All members were present, with the exception of Representatives Courtney, Dussault, Kennerly, Ramirez, Seifert and Teague.

Scheduled for hearing were House Bills 607, 633, 634 and 642 and Senate Bill 26.

HOUSE BILL #607:

REPRESENTATIVE FAGG, DISTRICT #63:

This bill would allow a person involved in a traffic violation to post bond with a private check instead of cash. The check must be in the state of Montana, and the person writing the check must have two documents identifying him. If the check is returned because of insufficient funds, the person is subject to prosecution.

DUANE TOOLEY, MONTANA HIGHWAY PATROL:

I would like to offer an amendment. On page 1, line 18, strike; "person" and insert; "highway patrolman or other authorized agent." Also, on page 1 line 20, strike; "insufficient funds" and insert; "non-payment". We cannot support this bill.

The hearing closed on House Bill 607.

THE HEARING OPENED ON HOUSE BILL #633:

REPRESENTATIVE VINCENT, DISTRICT #78:

The bill would allow district courts to award the prevailing party in actions involving \$10,000 or less attorneys fees and expert witness fees. This would be in any civil action for monetary damages brought in a district court. It would allow fees of not more than three expert witnesses in an amount not exceeding \$250 for each witness. Reasonable attorneys fees are the customary rates for an attorneys services in the county in which trial is held, but such rates may not exceed 50 dollars per hour. However, fees are not to be awarded in a civil action brought or defended by a party who is represented by a legal services attorney.

Would a statute like this be an inducement to justice. It should help the average citizen with any problems he might have, such as against the big insurance companies. I think it would help low and middle income people gain access to the court.

GREG MORGAN, STATE BAR OF MONTANA:

We are in favor of this bill. As an example, I had a young 16 year old boy come skidding into my car. It was just property damage, but I am still squabbling with the insurance company over that automobile.

House Judiciary

February 7, 1977

Page 3

REPRESENTATIVE CONROY:

Will this allow the county to get additional money from the federal government?

REPRESENTATIVE SCULLY:

Yes, it will. When people were refused their rights, they brought an action. That was when we discovered it. This involved both taxes and voting and created quite a problem.

The hearing closed on House Bill 634.

THE HEARING OPENED ON HOUSE BILL #642:

REPRESENTATIVE BARRETT, DISTRICT #48:

This bill pertains to duties of county clerks and recorders by adding the provision that clerks may refuse to record illegible documents and lowering the amount of damages for which a clerk is liable.

JOHN BELL, MONTANA CLERK & RECORDERS:

They do get unreadable and unprintable copies of documents. This would help with that. He went on to explain the types of documents that might be involved and how they were unreadable, etc.

HELEN COBICH, CLERK AND RECORDER, LEWIS AND CLARK COUNTY:

There are very few documents that are illegible, so that I don't think the clerk and recorders would abuse this bill.

REPRESENTATIVE BARRETT:

This is a basic protection they are looking for.

There followed general discussion about old documents, illegible copies and what could be done about them.

REPRESENTATIVE SCULLY:

What if it is illegible and the people are dead. He went on to give examples of other cases that might be pertinent.

After a general discussion the hearing closed on House Bill #642.

MR. JIM SEWELL made the comment that the abstrators were agreed and could support this bill, House Bill 642.

THE HEARING OPENED ON SENATE BILL #26.

LARRY WEINBERG, CODE COMMISSIONER:

This is a recod bill for water law. There are 2 principle problems, the change in definition and the method of water measurment. On page 12, section 7 concerning the definition of ground water. Fresh subsurface water is the water that is covered by the ground water

February 7, 1977

Page 4

chapter. On page 15, line 15, I would like to write a definition that in this chapter, there is the definition for only one definitional section. People weren't aware that the language was already there. Another change was the miners inch - cubic foot of water per second. We use either CFS or miners inches. These were the two big areas on the floor of the Senate. 1 cubic foot equals 7.48 gallons or 62.4 pounds of water and 1 acre-foot equals 43,560 cubic feet or 325,900 gallons. An acre-foot covers one acre of land one foot deep. 1 cubic foot per second equals 448.8 gallons per minute, 1 cfs equals 40 Montana statutory miner's inches.

SENATOR MCGOWAN:

Do you mean irrigation inches or cubic feet per second. Its hard to change things that have been this way so long.

SENATOR GRAHAM:

They thought this was new language. With the number of votes in the association, they could show so many votes per so many cubic inches.

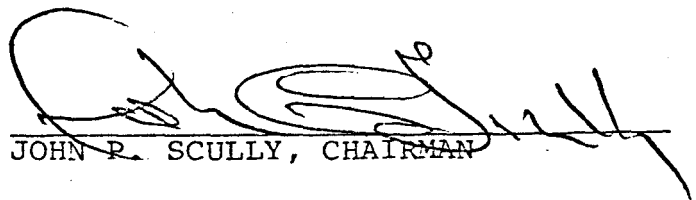
MR. WEINBERG explained the change made in the giving of the notice. I struck the part that says official newspaper. You could add more language and say "with reference to a newspaper printed in a county." I could prepare an amendment.

There was discussion about page 17, line 2 and page 17, line 18, Mr. Weinberg explained the section.

The Association of Counties is in support of the bill.

The hearing closed on Senate Bill #26.

The meeting closed at 11:50 a.m.



JOHN R. SCULLY, CHAIRMAN



Mary Ellen Connelly, Secretary

HOUSE OF REPRESENTATIVES

March 8, 1977

Committee of the Whole amendments to SENATE BILL NO. 26, third reading copy, as follows:

1. Amend page 12, section 6, line 6.
Following: "~~inch~~"
Strike: "INCH OR"
2. Amend page 35, section 21, line 13.
Following: "51% of"
Strike: ","
3. Amend page 35, section 21, lines 14 and 15.
Following: "inches"
Strike: "INCHES OF WATER OR"
Following: "per second"
Strike: ","
4. Amend page 35, section 21, line 21.
Following: "per second"
Strike: "OR INCHES OF WATER"
5. Amend page 37, section 23, lines 9 and 10.
Following: "inches"
Strike: "INCHES OR"
6. Amend page 37, section 23, line 12.
Following: "measurement,"
Strike: "ONE INCH OF WATER, STATUTORY MEASUREMENT, OR"

AND AS AMENDED
BE CONCURRED IN

SENATE BILL NO. 26
INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS 89-128, 89-1901, AND 89-2818, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-105, R.C.M. 1947, is amended to read as follows:

"89-105. ~~Power of department to construct works and to act beyond jurisdiction~~ Construction of works by department.

(1) Subject to the approval of the board, the department may construct works, the cost of the construction to be paid wholly by means of or with the proceeds of revenue bonds hereinafter authorized or of a grant to aid in financing the construction from the United States or any instrumentality or agency thereof and of other funds provided ~~under the authority of this act for the construction.~~ Before constructing a project, the department shall estimate the cost of the project, the cost of maintaining, repairing, and operating it, and the revenues to be derived therefrom, and a project may not be constructed unless, according to the estimates, the revenues to be derived will be sufficient to pay the cost of maintaining, repairing, and operating it

and to pay the principal and interest of revenue bonds which may be issued for the cost of the project; however, in connection with the issuance of revenue bonds, the failure of the department to make the estimates required by this section or to make them in proper form does not affect the validity or enforceability of those bonds or of the trust indenture, resolution, or other security therefor.

(2) ~~However, should~~ Should the bid of the lowest responsible bidder on any capital improvement associated with public works ~~as defined in this section~~ exceed the department estimates of the cost of the improvements by more than ~~five per cent (5%)~~, the department shall obtain approval from the water user association, whenever an association is involved, before the bid is accepted; however, capital improvements of an emergency nature necessary to protect life or property or to supply immediate needs for water do not require such approval.

(3) ~~The~~ A purpose of this act is to meet, so far as possible, a ~~state-wide~~ statewide need for the conservation and use of water through the construction and operation of projects designed for those purposes. ~~The department may make investigations as are necessary to plan and carry out a comprehensive state-wide program of water conservation.~~ The projects to be finally constructed shall qualify as parts of the ~~state-wide~~ statewide program and shall be approved by

1 the board upon the showing of their prospective ability to
 2 meet, through the sale of water or other services, the cost
 3 of operation, maintenance, and repair and the amortization
 4 of the cost of the construction, ~~however, the~~ the failure
 5 of the board to determine the prospective ability of a
 6 project does not affect the validity or enforceability of
 7 the bonds or of the trust indenture, resolution, or other
 8 security therefor.

9 (4) The department may exercise any of its powers:

10 (a) ~~in in~~ an adjoining state, unless the exercise of
 11 that power is not permitted under the laws of that state or
 12 of the United States;

13 (b) ~~in in~~ a national forest or public domain of the
 14 United States adjoining or located in the state of
 15 Montana, unless the exercise of those powers is not
 16 permitted under the laws of the United States;

17 (c) ~~in in~~ an adjoining country, unless the exercise of
 18 those powers is not permitted under the laws of that country
 19 or of the United States or under the treaties between that
 20 country and the United States."

21 Section 2. Section 89-115, R.C.M. 1947, is amended to
 22 read as follows:

23 "~~89-115. Water funds rates sale of water appeals~~
 24 ~~to board lease and sale of water rights and property~~
 25 Management of property -- water contracts. (1) Subject to

1 this act and section 89-103.2, the department may fix and
 2 establish the prices, rates, and charges at which the
 3 resources and facilities made available under this act may
 4 be sold and disposed of; enter into contracts and
 5 agreements, and do those things which in its judgment are
 6 necessary, convenient, or expedient for the accomplishment
 7 of the purposes and objects of this act, under such general
 8 regulations ~~rules~~ and upon such terms, limitations, and
 9 conditions as it prescribes; ~~the~~ the department shall enter
 10 into the contracts and fix and establish the prices, rates,
 11 and charges so as to provide at all times funds which will
 12 be sufficient to pay all costs of operation and maintenance
 13 of the works authorized by this act, together with necessary
 14 repairs thereto, and which will provide at all times
 15 sufficient funds to meet and pay the principal and interest
 16 of all bonds or loans as they severally become due and
 17 payable; ~~this~~ this act does not authorize any change,
 18 alteration, or revision of those rates, prices, or charges
 19 as established by any contract entered into under this act
 20 except as provided by the contract.

21 (2) An incorporated water users' association that is
 22 sustaining and responsible for the operations of a works is
 23 solely liable for any court action which may be brought
 24 against it or the state of Montana for any injury or damages
 25 occurring on the works caused by a failure to maintain safe

1 working and operating conditions.

2 (3) A contract made by the department for the sale of
3 water, use of water, water storage, or other service, or for
4 the sale of any property or facilities, shall provide that,
5 in the event of a failure or default in the payment of
6 moneys specified in the contract to be paid to the
7 department, the department may, upon notice as is prescribed
8 in the contract, terminate the contract and all obligations
9 thereunder. The act of the department in ceasing on default
10 to furnish or deliver water, use of water, water storage, or
11 other service under the contract does not deprive the
12 department of, or limit any remedy provided by the contract
13 or by law for the recovery of moneys due or which may become
14 due under the contract.

15 (4) (a) A person aggrieved by a decision of the
16 department to terminate any contract under subsection (3)
17 may appeal to the board and be heard thereon by filing
18 written notice of the appeal with the department within ten
19 {10} days after receiving notice of termination of the
20 contract from the department. The termination of the
21 contract shall be stayed if an appeal is taken.

22 (b) If a dispute arises between the department and
23 another party regarding amounts owing or the terms and
24 conditions under a water marketing or water purchase
25 contract, or under a contract for the construction or repair

1 of works, that party may appeal to the board for a hearing
2 thereon and a resolution of the dispute by filing written
3 notice of the appeal with the department within ~~thirty~~{30}
4 days after the final decision of the department regarding
5 the dispute.

6 (5) Subject to the approval of the board under section
7 89-103.2, the department may sell, transfer to water user
8 associations, abandon, or otherwise dispose of any ~~rights-of-~~
9 ~~way~~ rights-of-way, easements, or property when it determines
10 that they are no longer needed for the purposes of this act,
11 or lease or rent the same or otherwise take and receive the
12 income or profit and revenue therefrom. A determination
13 shall be made by the department as to the market value of
14 ~~rights-of-way~~ rights-of-way, easements, or property to be
15 sold, transferred, abandoned, or otherwise disposed of. ~~All~~
16 ~~income-or-profit-and-revenue-of-the-works-and-all-moneys~~
17 ~~received-from-the-sale-or-disposal-of-water, use-of-water,~~
18 ~~water-storage-or-other-service, and from the operation,~~
19 ~~lease, sale or other disposition of the works, property and~~
20 ~~facilities acquired under this act shall be deposited to~~
21 ~~the state general funds."~~

22 Section 3. Section 89-401, R.C.M. 1947, is amended to
23 read as follows:

24 "89-401. Disposition of moneys collected. {1} For the
25 purpose of carrying out the provisions of ~~the Water~~

~~Conservation Act, acts amendatory thereto and supplementary~~
~~thereof, chapter 1 of Title 89~~ and such other water resource
 authority, powers, and duties as are conferred upon the
 department of natural resources and conservation by law, the
 following moneys shall be deposited in the earmarked revenue
 fund for the use of the department:

(a) all sums of money donated or contributed by the
 federal government or any department or agencies thereof;

(b) all gifts, donations, bequests, and devises made
 to the state therefor, and proceeds of the sale thereof; and
 the proceeds of the sale or redemption of and the interest
 earned by the securities purchased or acquired by the moneys
 thereof with money received under this subsection;

(c) all reimbursements for money advanced for the
 payment of the assessments upon state, ~~school--granted~~
~~school-granted,~~ and other public lands for the improvement
 thereof as provided by law;

(d) all reimbursements for money advanced for the
 investigation and survey of reclamation, electrification,
 and rehabilitation systems or projects proposed to be
 financed in whole or in part by the reclamation of lands and
 dyking, drainage, and dyking and drainage dams for
 conservation of water to be used in reclamation of land or
 stock reservoirs or for the construction, maintenance, and
 operation of plants or projects for the manufacture or

distribution of electric current; ~~revenues--arising from~~
~~projects constructed or owned by the department in excess of~~
~~costs--of--operation--and--maintenance--and--repayment--of~~
~~principal--and--interest--of--any--moneys--borrowed--for--the~~
~~construction of the projects; all sums payable as rents~~
~~due for water use, maintenance or operation upon any project~~
~~owned by the state or for which such rents are due and~~
~~payable under any contract or agreement made by any person,~~
~~association or corporation with the department; all sums of~~
~~money received by the department for the use of electric~~
~~current in excess of the maintenance and operation upon any~~
~~electrification system or project;~~

(e) all reimbursements for costs of surveys and
 investigations for moneys advanced to counties, cities or
 towns or their proportion of the cost thereof, or from any
 other sources.

(2) The following shall be deposited in the state
general fund:

(a) all income or profit and revenue of the works and
all money received from the sale or disposal of water, use
of water, water storage, or other service and from the
operation, lease, sale, or other disposition of the works,
property, and facilities acquired under chapter 1 of Title
89; and

(b) all sums received by the department for the use of

1 electricity in excess of the maintenance and operation of
 2 the electrification system or project."

3 Section 4. Section 89-125, R.C.M. 1947, is amended to
 4 read as follows:

5 "~~89-125. Powers-of-department--concerning--waters--and~~
 6 ~~appropriations--thereof~~ Department powers over state waters.

7 (1) The authority of the department conferred by this act
 8 ~~chapter~~ extends and applies to rights to the natural flow of
 9 the waters of this state which it may acquire, with the
 10 approval of the board, by condemnation, purchase, exchange,
 11 appropriation, or agreement.

12 (2) For the purpose of regulating the diversion of
 13 those waters, the department may enter upon the means and
 14 place of use of all appropriators for making surveys of
 15 respective rights and seasonal needs.

16 (3) The department may take into consideration the
 17 decrees of the courts of this state having jurisdiction,
 18 which purport to adjudicate the waters of a stream or its
 19 tributaries, and a fair, reasonable, and equitable
 20 reconciliation shall be made between the claimants asserting
 21 rights under different decrees and between decreed rights
 22 and asserted rights of appropriation not adjudicated by any
 23 court.

24 (4) The department, at its discretion, may hold
 25 hearings relating to the rights of respective claimants

1 after first giving such notice as it deems considers
 2 appropriate, and make findings of the date and quantity of
 3 appropriation and use of all claimants which the department
 4 will recognize and observe in diverting the waters which it
 5 owns. The department may police and distribute to the owner
 6 of the recognized appropriation the waters due him upon
 7 request and under terms agreed upon.

8 (5) The department, when engaged in controlling and
 9 dividing the natural flow of a stream under the authority
 10 granted by this ~~act~~ chapter, is exercising a police power of
 11 the state, and water commissioners appointed by any court
 12 may not deprive the department of any of the waters owned or
 13 administered under agreement with respective owners, but the
 14 owner of a prior right contending that the department is not
 15 recognizing and respecting the appropriation may resort to a
 16 court for the purpose of determining whether or not the
 17 rights of the claimant have been invaded, and the department
 18 shall observe the terms of the final decree.

19 (6) When the department impounds or acquires the right
 20 of appropriation of the waters of a stream, it may divert or
 21 authorize the diversion at any point on the stream, or any
 22 portion thereof, when it is done without injury to a prior
 23 appropriator.

24 ~~(7) This act does not repeat or amend an existing~~
 25 ~~statute pertaining to the appropriation or use of water~~

1 ~~except as expressly provided in this act, and this act does~~
 2 ~~not interfere with vested rights to the use of water.~~

3 ~~{8} in addition to the powers conferred on the~~
 4 ~~department elsewhere in this chapter.~~

5 {7} the ~~The~~ department may acquire water by purchase
 6 option or agreement with the federal government from the
 7 Fort Peck Reservoir for the purpose of sale, rent, or
 8 distribution for industrial use. In such cases, the
 9 department is not required to construct any diversion or
 10 appropriation facilities or works, and it may sell, rent, or
 11 distribute such water at such rates and under such terms and
 12 conditions as it considers appropriate."

13 Section 5. Section 89-319, R.C.M. 1947, is amended to
 14 read as follows:

15 "89-319. Separate permit for each operation. {1}
 16 Separate permits shall be issued for each operation.

17 {2} "Operation" means the performance of weather
 18 modification and control activities entered into for the
 19 purpose of producing or attempting to produce a certain
 20 modifying effect within one {1} geographical area over one
 21 continuing time interval not exceeding one {1} year."

22 Section 6. Section 89-823, R.C.M. 1947, is amended to
 23 read as follows:

24 "89-823. Owners of water to sell surplus. Any person
 25 having the right to use, sell, or dispose of water, and

1 engage in using, selling, or disposing of the same, who has
 2 a surplus of water not used or sold, or any person having a
 3 surplus of water, and the right to sell and dispose of the
 4 same, is required, upon the payment or tender to the person
 5 entitled thereto of an amount equal to the usual and
 6 customary rates per inch ~~inch or~~ cubic foot of water per
 7 second, to convey and deliver to the person ~~such the~~ surplus
 8 of unsold water, or so much thereof for which ~~said the~~
 9 payment or tender ~~shall have been~~ has been made, and shall
 10 continue ~~so~~ to convey and deliver the same weekly so long as
 11 ~~said the~~ surplus of unused or unsold water exists and ~~said~~
 12 ~~the~~ payment or tender ~~be~~ is made as aforesaid."

13 Section 7. Section 89-867, R.C.M. 1947, is amended to
 14 read as follows:

15 "89-867. Definitions. Unless the context requires
 16 otherwise, in this chapter the following definitions apply:

17 (1) "Water" means all water of the state, surface and
 18 subsurface, regardless of its character or manner of
 19 occurrence, including geothermal water.

20 (2) "Beneficial use" means a use of water for the
 21 benefit of the appropriator, other persons, or the public,
 22 including but not limited to, agricultural (including stock
 23 water), domestic, fish and wildlife, industrial, irrigation,
 24 mining, municipal power, and recreational uses, ~~provided,~~
 25 ~~however, that a~~ A use of water for slurry to export coal

1 from Montana is not a beneficial use. Slurry is a mixture
2 of water and insoluble matter.

3 (3) "Appropriate" means to divert, impound, or
4 withdraw (including by stock for stock water) a quantity of
5 water, or, in the case of a public agency, to reserve water
6 in accordance with section 89-890.

7 (4) "Existing right" means a right to the use of water
8 which would be protected under the law as it existed prior
9 to July 1, 1973.

10 (5) "Groundwater" means any water beneath the land
11 surface or beneath the bed of a stream, lake, reservoir, or
12 other body of surface water, and which is not a part of that
13 surface water.

14 (6) "Well" means any artificial opening or excavation
15 in the ground, however made, by which groundwater is sought
16 or can be obtained or through which it flows under natural
17 pressures or is artificially withdrawn.

18 (7) "Permit" means the permit to appropriate issued by
19 the department under sections 89-880 through 89-887.

20 (8) "Certificate" means the certificate of water right
21 issued by the department under sections 89-879, 89-880(5),
22 and 89-888.

23 (9) "Declaration" means the declaration of an existing
24 right filed with the department under section 89-872.

25 (10) "Waste" means the unreasonable loss of water

1 through the design or negligent operation of an
2 appropriation or water distribution facility, or the
3 application of water to anything but a beneficial use.

4 (11) "Political" subdivision means any county,
5 incorporated city or town, public corporation, or district
6 created pursuant to state law, or other public body of the
7 state empowered to appropriate water, but not a private
8 corporation, association, or group.

9 (12) "Person" means an individual, association,
10 partnership, corporation, state agency, political
11 subdivision, and or the United States or any agency thereof.

12 (13) "Department" means the department of natural
13 resources and conservation provided for in Title 82A,
14 chapter 15.

15 (14) "Board" means the board of natural resources and
16 conservation provided for in section 82A-1509.

17 ~~(15) "Act" means the Montana Water Use Act and any~~
18 ~~subsequent amendments or additions thereto."~~

19 Section 8. Section 89-2911, R.C.M. 1947, is amended to
20 read as follows:

21 "89-2911. Definitions. Unless the context requires
22 otherwise, in this chapter the following definitions apply:

23 ~~(a) (1)~~ "Ground--water Groundwater" means any fresh
24 water beneath the land surface or beneath the bed of a
25 stream, lake, reservoir, or other body of surface water, and

1 which is not a part of that surface water. Fresh water shall
 2 be deemed considered to be water fit for domestic,
 3 livestock, or agricultural use. The department, after
 4 notice and hearing, may fix definite standards for
 5 determining fresh water in any controlled ground-water
 6 groundwater area or subarea of the state.

7 (b)(2) "Aquifer" means any underground geological
 8 structure or formation which is capable of yielding water or
 9 is capable of recharge.

10 (c)(3) "Well" means any artificial opening or
 11 excavation in the ground, however made, by which ground
 12 water groundwater is sought or can be obtained or through
 13 which it flows under natural pressures or is artificially
 14 withdrawn.

15 (d)(4) "Beneficial use" means a use of water for the
 16 benefit of the appropriator, other persons or the public,
 17 including, but not limited to, agricultural (including stock
 18 water), domestic, fish and wildlife, industrial, irrigation,
 19 mining, municipal, power, and recreational uses. A use of
 20 water for slurry to export coal from Montana is not a
 21 beneficial use. Slurry is a mixture of water and insoluble
 22 matter.

23 (e)(5) "Person" means an individual, association,
 24 partnership, corporation, state agency, political
 25 subdivision, and or the United States or any agency thereof.

1 (f)(6) "Department" means the department of natural
 2 resources and conservation provided for in Title 82A,
 3 chapter 15.

4 (g)(7) "Ground-water Groundwater area" means an area
 5 which, as nearly as known facts permit, may be designated so
 6 as to ~~inclose~~ enclose a single and distinct body of ground
 7 water groundwater, which shall be described horizontally by
 8 surface description in all cases and which may be limited
 9 vertically by describing known geological formations should
 10 conditions dictate this to be desirable. For purposes of
 11 administration, large ground-water groundwater areas may be
 12 divided into convenient administrative units "known as
 13 "subareas".

14 (h)(8) "Board" means the board of natural resources
 15 and conservation provided for in section 82A-1509.

16 (9) "Political subdivision" means any county,
 17 incorporated city or town, public corporation, or district
 18 created pursuant to state law or other public body of the
 19 state empowered to appropriate water, but not a private
 20 corporation, association, or group."

21 Section 9. Section 89-899, R.C.M. 1947, is amended to
 22 read as follows:

23 "89-899. Legal assistance. (1) When requested by the
 24 department, the attorney general and the county attorneys
 25 within their respective counties shall perform legal

1 services and conduct legal proceedings necessary to carry
2 out the purposes of this ~~act~~ chapter. The department may
3 also employ legal counsel to enforce this ~~act~~ chapter and to
4 conduct proceedings under it.

5 (2) If an appropriator who is a citizen of Montana
6 becomes involved in a controversy to which any agency of the
7 federal government or another state is a party, the
8 department may in its discretion intervene as a party or
9 provide necessary legal assistance to the citizen of
10 Montana."

11 Section 10. Section 89-2930, R.C.M. 1947, is amended
12 to read as follows:

13 "89-2930. Duty of county attorneys and attorney
14 general. The county attorneys and the attorney general of
15 the state shall perform such legal services and bring such
16 legal proceedings in carrying out the purpose of this ~~act~~
17 chapter within their respective counties as the department
18 ~~shall~~ may request. The department may also employ legal
19 counsel to enforce this chapter and to conduct proceedings
20 under it."

21 Section 11. Section 89-907, R.C.M. 1947, is amended to
22 read as follows:

23 "89-907. Filing written statement with department.

24 (1) Any person claiming an appropriative right to the use
25 of any water of any interstate tributary which right was

1 acquired after January 1, 1950, shall ~~within sixty 60~~ days
2 after ~~the approval of this act~~ February 25, 1953, or before
3 he diverts any water, file with the department at its office
4 in Helena, Montana, a written statement containing the
5 following information:

- 6 (a) ~~The~~ the name of the claimant and his address*i*
- 7 (b) ~~Date~~ date of appropriation or the date when the
8 water was first applied to a beneficial use*i*
- 9 (c) ~~The~~ the quantity of water claimed*i*
- 10 (d) ~~The~~ the name of the stream, river, or other source
11 of water from which the diversion is made, if it has a name,
12 and if it does not, ~~such~~ a description ~~as will identify~~
13 identifying the same*i*
- 14 (e) ~~The~~ the purpose for which the water is claimed and
15 the place of intended use*i*
- 16 (f) ~~The~~ the means of diversion*i*
- 17 (g) ~~Whether~~ whether or not a weir or other device for
18 measuring the water intended to be diverted has been
19 installed in his ditch or other means of diversion*i*
- 20 (h) ~~If~~ if a notice of appropriation was filed with the
21 county clerk and recorder, ~~as provided by section 89-818,~~
22 the name of the county where it was filed*i*
- 23 (i) ~~Whether~~ whether the appropriation was made from an
24 adjudicated or nonadjudicated stream, river, or other source
25 of water.

(2) The written statement shall be verified by the affidavit of the claimant or someone in his behalf, which affidavit must state that the matters and facts contained in the written statement are true."

Section 12. Section 89-911, R.C.M. 1947, is amended to read as follows:

"89-911. Domestic and stock uses ~~not--within--the--act~~ ~~exempted~~. Any appropriation of water from any interstate tributary of the Yellowstone River made for domestic or stock water uses ~~shall will~~ not come within the provisions of this act ~~provided that chapter whenever~~ the capacity of any a reservoir for stock water ~~shall does~~ not exceed twenty 20 acre-feet."

Section 13. Section 89-1015, R.C.M. 1947, is amended to read as follows:

"89-1015. Complaint by dissatisfied user ~~---procedure~~ on. Any A person owning or using any of the waters of such the stream or ditch or extension of the ditch who is dissatisfied with the method of distribution of the waters of such the stream or ditch by such the water commissioner or water commissioners and who claims to be entitled to more water than he is receiving, or is entitled to a right prior to that allowed him by such the water commissioner or water commissioners, may file his written complaint, duly verified, setting forth the facts of such the claim.

Thereupon the judge shall fix a time for the hearing of such petition and shall direct that such notice be given to the parties interested in such the hearing as the judge may deem considers necessary. At the time fixed for such the hearing, the judge must hear and examine the complainant and such other parties as may appear to support or resist such claim and also examine such the water commissioner or water commissioners and witnesses as to the charges contained in said the complaint. Upon the determination of the hearing, the judge shall make such findings and order as he may deem considers just and proper in the premises. If it shall appear appears to the judge that the water commissioner or water commissioners have not properly distributed the water according to the provisions of the decree, then the judge shall give the proper instructions for such distribution. The judge may remove such any water commissioner or water commissioners and appoint some other person or persons in his or their stead if he deems considers that the interests of the parties in the waters mentioned in such the decree will be best subserved thereby, and if it shall appear appears to the judge that the said water commissioner or water commissioners have has willfully failed to perform their his duties, they he may be proceeded against for contempt of court, as provided in contempt cases. The judge shall make such order as to the payment of costs of such the

1 hearing as ~~may appear~~ appears to him to be just and proper."

2 Section 14. Section 89-1202, R.C.M. 1947, is amended
3 to read as follows:

4 "89-1202. Petition for organization. (1) For the
5 purpose of establishing and organizing an irrigation
6 district hereunder, a petition signed by the required number
7 of holders of title or evidence of title to lands within
8 ~~such the~~ proposed district mentioned in the preceding
9 section shall be filed with the clerk of the district court
10 of the county in which ~~the lands of the proposed district~~
11 ~~or the greater portion thereof are situated; provided, if~~
12 ~~there are three or more counties embraced in the proposed~~
13 ~~district, and no one county embraces the greater portion of~~
14 ~~said lands, then and in that event said petition shall be~~
15 ~~filed in the county which embraces a greater portion of said~~
16 ~~lands than any one of the other counties embraced in said~~
17 ~~proposed district the greatest portion of the lands of the~~
18 ~~proposed district are located.~~ Such the petition shall set
19 forth:

20 1. (a) The ~~the~~ name suggested for the proposed
21 district;

22 2. (b) A general description of the lands to be
23 included in the proposed district;

24 3. (c) The ~~the~~ names of the holders of title or
25 evidence of title to the lands in the proposed district,

1 ascertained in the manner mentioned in the preceding
2 section; and if ~~any such a~~ holder is a nonresident of the
3 county or counties in which the proposed district lies, the
4 post-office address of ~~such the~~ nonresident owner, if known;

5 4. (d) ~~Generally~~ generally, the source from which the
6 lands in the proposed district are to be irrigated; ~~and~~ the
7 character of the works, water rights, canals, and other
8 property proposed to be acquired or constructed for
9 irrigation purposes in the proposed district;

10 5. (e) A prayer that the lands embraced within the
11 proposed district be organized as an irrigation district
12 according to the applicable provisions of ~~this act~~ chapters
13 12 through 21 of Title 89.

14 (2) The petition shall be accompanied by:

15 1. (a) a map or plat of the proposed district; and

16 2. (b) a good and sufficient bond or undertaking, to
17 be approved by the district court or judge thereof of the
18 county in which the petition is required to be filed under
19 the provisions of ~~this act~~ subsection (1), to pay all costs
20 in and about the proceedings preliminary to the organization
21 of the district in the event that ~~said the~~ organization
22 ~~shall is~~ not be effected.

23 (3) Mere error or omission in the description of any
24 lands or in the names of any of the holders of title or
25 evidence of title to lands ~~shall not operate to~~ does not

1 render invalid any proceedings hereunder or to deprive the
 2 district court of jurisdiction of the subject matter,
 3 provided such Such misdescribed lands or misnamed persons
 4 shall ~~may~~ not be included in ~~said the~~ district."

5 Section 15. Section 89-1204, R.C.M. 1947, is amended
 6 to read as follows:

7 "89-1204. Hearing on petition and appointment of
 8 commissioners. (1) At the time specified in the notice
 9 mentioned in the preceding section, the district court in
 10 which the petition aforesaid is filed shall hear the
 11 petition but may adjourn such hearing from time to time,
 12 not exceeding ~~three~~ 3 weeks in all, and may continue the
 13 hearing for want of sufficient notice or other good cause.
 14 The court, upon application of the petitioners or any
 15 interested person or persons interested, shall permit the
 16 petition to be amended, and may order further or additional
 17 notice to be given. Upon such hearing all interested persons
 18 interested, whose lands or rights may be damaged or
 19 benefited by the organization of the district or by the
 20 irrigation works or improvements therein or to be acquired
 21 or constructed ~~as hereinafter set forth~~, may appear and
 22 contest the necessity or utility of the proposed district
 23 or any part thereof, and the contestants and petitioners may
 24 offer any competent evidence in regard thereto.

25 (2) ~~it shall be the duty of the~~ The court to shall

1 hear and determine whether the requirements of sections
 2 89-1201, 89-1202, and 89-1203 have been complied with, and
 3 for that purpose shall hear all competent and relevant
 4 testimony that may be offered.

5 (3) ~~(a)~~ The court may make such changes in the
 6 proposed district as may be deemed considered advisable, or
 7 as fact, right, and justice may require, ~~but shall not~~
 8 ~~exclude from such proposed district any land~~ Land which is
 9 susceptible of irrigation from the same general source, and
 10 by the same general system of works applicable to the other
 11 lands of ~~such the~~ proposed district, may not be excluded
 12 from the proposed district if the owner or owners of such
 13 ~~the~~ lands shall file in ~~such the~~ district court a written
 14 request that ~~such the~~ lands be included, ~~in such district,~~
 15 ~~nor shall any lands which will not, in the judgment of the~~
 16 ~~court, be benefited by irrigation by means of said system of~~
 17 ~~works, nor shall lands already under irrigation, nor lands~~
 18 ~~having water rights appurtenant thereto, nor lands that can~~
 19 ~~be irrigated from sources more feasible than the district~~
 20 ~~system, be included within such proposed district, unless~~
 21 ~~the owner of such lands shall consent in writing to the~~
 22 ~~inclusion of such lands in the proposed district, as~~
 23 ~~hereinafter provided, and to this end the court may~~
 24 ~~subdivide lands included within the petition or proposed at~~
 25 ~~the hearing to be included within such district into~~

~~forty-acre tracts or smaller subdivisions thereof; provided, however, that where a district is formed to co-operate with the United States lands previously irrigated and having water rights appurtenant thereto may be included within the district boundaries if it shall appear to the court that the same will be benefited thereby; and provided further, that all lands having water rights appurtenant thereto which are served by a system of irrigation works supplying more than ten thousand acres of lands may in the discretion of the court be included in the proposed district on petition of at least a majority both in number and acreage of the holders of title or evidence of title to the land having water rights appurtenant thereto and served by the same system of irrigation works; lands of the district need not be contiguous and any particular tract or tracts, irrespective of their location in the district, may be excluded.~~

(b) Lands which will not, in the judgment of the court, be benefited by irrigation from the works of the proposed district; which are already under irrigation; which have appurtenant water rights; or which can be irrigated from sources more feasible than the proposed district may not be included in the district unless the owner of such lands consents in writing to the inclusion.

(c) Notwithstanding the provisions of subsection

(3)(b), whenever a district is formed to cooperate with the United States, lands previously irrigated and having appurtenant water rights may be included within the district boundaries if it appears to the court that the lands will be benefited by inclusion.

(d) All lands having appurtenant water rights, served by an irrigation works system supplying more than 10,000 acres, may, in the discretion of the court, be included in the proposed district upon petition by at least a majority, both in number and acreage, of the holders of title or evidence of title to the lands served by the irrigation system and having appurtenant water rights.

(e) Lands of the district need not be contiguous. The location of a particular tract in the proposed district is not a bar to exclusion.

(4) For purposes of including or excluding land from a proposed district, the court may subdivide any tract into 40-acre or smaller parcels.

(4)(5) If, on final hearing, it is found by the court that the petition does not substantially comply with the aforesaid requirements of this act, or that the facts therein stated are not sustained by the evidence, then the court shall dismiss the petition at the cost of the petitioners, and shall make and enter an order to that effect, but if it is found that said the petition

substantially complies with ~~said the~~ requirements, and that the facts therein stated are sustained by the evidence, then the court shall make and enter an order:

1-(a) Setting ~~setting~~ forth ~~said~~ findings and allowing ~~said the~~ petition;

2-(b) Establishing ~~establishing~~ the proposed district;

3-(c) Giving ~~giving~~ accurate descriptions of the lands included within the proposed district;

4-(d) Dividing ~~dividing~~ the proposed district into three, five, or seven divisions, as may be advisable in view of the size of the district;

5-(e) Appointing ~~appointing~~ as commissioner one competent person for each division of the district, having the qualifications as provided by section 89-1205.

6-(f) Such ~~the~~ finding and order ~~shall be~~ are conclusive upon all the owners of lands within the district that they have assented to and accepted the applicable provisions of this act, chapters 12 through 21 of Title 89 and ~~shall be~~ are final unless appealed from to the supreme court within sixty ~~60~~ days from the day of entry of ~~such the~~ order. A copy of ~~such the~~ order, duly certified to by the clerk of ~~said the district~~ court, shall be filed for record within thirty ~~30~~ days after ~~such the~~ order is made and entered with the county clerk and recorder of the county wherein ~~where~~ the lands included within ~~such the~~ district

are situated, ~~provided, however, there shall be omitted from such copy tends~~ Lands not situated in the county in which ~~such the~~ copy is filed shall be omitted from the copy.

6-(7) Every irrigation district so established hereunder is hereby ~~declared to be~~ a public corporation for the promotion of the public welfare, and the lands included therein shall constitute all the taxable and assessable property of such district for the purposes of ~~this act~~ chapters 12 through 21 of Title 89."

Section 16. Section 89-1205, R.C.M. 1947, is amended to read as follows:

"89-1205. Qualifications of commissioners and term of office--~~official bond.~~ (1) No person ~~shall be qualified to hold the position of~~ may be a commissioner unless he ~~be is~~ is an owner of land within the district and ~~shall be is a~~ is a resident of the county in which the division of the district, or some portion thereof, for which ~~such commissioners so the commissioner is~~ elected, is situated.

(2) The commissioners appointed ~~as--afore said~~ shall hold their respective offices until the second Saturday in April following their appointment, and until their respective successors are elected and qualified ~~as--and in the manner hereinafter provided.~~ Each of ~~such the~~ commissioners shall qualify in the same manner as justices of the peace, ~~and shall give a bond in the sum of two~~

1 ~~thousand--dollars--conditioned-upon-the-faithful-performance~~
 2 ~~of-his-duties--to-be-made-payable-to-the-state-for-the~~
 3 ~~benefit-of--the-districts-which~~ The bond for a commissioner
 4 shall be approved by the district court or judge thereof and
 5 filed in the office of the clerk of ~~said the court.~~
 6 ~~provided-that-in~~ In case any district organized established
 7 under this ~~title~~ chapter is appointed fiscal agent of the
 8 United States, or is authorized by the United States ~~is~~
 9 authorized to make collections of moneys for and on behalf
 10 of the United States in connection with any federal
 11 reclamation project, each ~~such~~ commissioner shall execute a
 12 further and additional official bond in such sum as the
 13 secretary of the interior may require, conditioned for the
 14 faithful discharge of the duties of his office, and the
 15 faithful discharge by the district of its duties as fiscal
 16 or other agent of the United States under any such
 17 appointment or authorization, and any such bond may be sued
 18 upon by the United States, or ~~by~~ any person injured by the
 19 failure of ~~such the~~ commissioner or the district to fully,
 20 promptly, and completely perform their respective duties."

21 Section 17. Section 89-1208, R.C.M. 1947, is amended
 22 to read as follows:

23 "89-1208. Compensation and expenses of commissioners--
 24 ~~penalty--for--interest--in--contract--bonds--of--commissioners.~~
 25 (1) The commissioners, when sitting as a board or when

1 engaged in the business of the district, shall each receive
 2 an amount not to exceed ~~twenty-dollars-(\$20)-~~per a day for
 3 services, and, in addition thereto, their necessary expenses
 4 in attending meetings, or when otherwise engaged on district
 5 business, including premiums on qualifying bonds and any
 6 other bonds required of them in connection with their
 7 office, provided such expenses and per diem ~~be~~ are approved
 8 by a unanimous vote of ~~said the~~ board, and a mileage
 9 allowance of ~~twelve 12~~ 12 cents ~~(\$12)-~~per a mile in attending
 10 board meetings or when engaged in the business of the
 11 irrigation district.

12 (2) No commissioner or any other officer named in this
 13 act ~~shall may~~ in any manner be interested, directly or
 14 indirectly, in any contract awarded or to be awarded by the
 15 board, or in the profits derived therefrom, ~~and-for~~ for any
 16 violation of this provision, such officer ~~shall-be-deemed is~~
 17 guilty of a misdemeanor and his conviction thereof shall
 18 work forfeiture of his office and he shall be punished ~~by--a~~
 19 ~~fine--not--exceeding--five--hundred-dollars-(\$500.00)-or-by~~
 20 ~~imprisonment-in-the-county-jail-not-exceeding-six-(6)-months~~
 21 ~~or-by--both--such--fine--and--imprisonment~~ as provided in
 22 94-7-401.

23 (3) The commissioners of ~~said an~~ irrigation district
 24 shall each furnish a bond in the penal sum of ~~twenty-five~~
 25 ~~hundred---dollars---(\$2,500.00),~~ with corporate surety

1 conditioned for the faithful performance of their duties
 2 under this act, ~~and the~~ The secretary shall furnish bond,
 3 with corporate surety, in the sum of ~~one--thousand--dollars~~
 4 ~~(\$1,000.00)~~, conditioned for the faithful performance of his
 5 duties pursuant to this act, and for the proper and
 6 safekeeping of the records and documents of ~~said the~~
 7 district, in all cases where the obligations of ~~said the~~
 8 district, either existing or proposed, total ~~two-hundred-and~~
 9 ~~fifty-thousand-dollars--(\$250,000.00)~~ or over. In all other
 10 cases the bond for ~~said the~~ commissioners shall be in the
 11 sum of ~~one-thousand-dollars--(\$1,000.00)~~."

12 Section 18. Section 89-1220, R.C.M. 1947, is amended
 13 to read as follows:

14 "89-1220. Purpose. This act is not intended to
 15 conflict in any way with present statutes governing
 16 irrigation districts, but is for the sole purpose of making
 17 it possible for one or more irrigation districts to function
 18 jointly through a central control agency for the purpose of
 19 efficiency, simplicity, and economy."

20 Section 19. Section 89-1311, R.C.M. 1947, is amended
 21 to read as follows:

22 "89-1311. Qualification of electors -- and nature of
 23 voting rights, how determined. (1) At all elections held
 24 under the provisions of this act, except as herein otherwise
 25 expressly provided, the following holders of title or

1 evidence of title to lands within the district, herein
 2 designated electors, ~~shall be~~ are entitled to vote:

3 1. ~~(a)~~ All persons having the qualifications of
 4 electors under the constitution and general and school laws
 5 of the state;

6 2. ~~(b)~~ Guardians ~~guardians~~, executors, administrators,
 7 and trustees residing in the state;

8 3. ~~(c)~~ Domestic ~~domestic~~ corporations, by their duly
 9 organized authorized agents.

10 (2) In all elections held under this act, each elector
 11 ~~shall be~~ is permitted to cast one vote for each ~~forty~~ 40
 12 acres of irrigable land or major fraction thereof, owned by
 13 such ~~the~~ elector within the district, irrespective of the
 14 location of such ~~the~~ irrigable lands within the tracts
 15 designated by the commissioners for assessment and taxation
 16 purposes, or within congressional subdivisions, platted lots
 17 or blocks, [except as hereinafter provided for], election
 18 precincts, or district divisions, but any elector owning any
 19 less than ~~forty~~ 40 acres of irrigable land ~~shall be~~ is
 20 entitled to one vote. Until ~~actual--determination--of~~ the
 21 irrigable area under the proposed plan of reclamation
 22 proposed is ~~had determined~~, all land included within the
 23 boundaries of the district shall be ~~deemed-to-be~~ considered
 24 irrigable land for election purposes.

25 (3) Where ~~Whenever~~ land is owned by co-owners, ~~said~~

1 ~~the~~ owners may designate one of their numbers or an agent
 2 to cast the vote for ~~said the~~ owners, and one vote only for
 3 each forty ~~40~~ acres of irrigable land or major fraction
 4 thereof ~~shall may~~ be cast by ~~said the~~ voting co-owner or
 5 agent. Where ~~Whenever~~ land is under contract of sale to a
 6 purchaser residing within the state, such ~~the~~ purchaser may
 7 vote on behalf of the owner of ~~said the~~ land. When voting,
 8 the agent of a corporation or of co-owners, or the co-owner
 9 designated for purpose of voting, or the purchaser of land
 10 under contract of sale, as the case may be, shall file with
 11 the secretary of the district or with the election
 12 officials a written instrument of his authority, executed
 13 and acknowledged by the proper officers of ~~said the~~
 14 corporation, or by ~~said the~~ co-owners, or by the owner of
 15 such land under contract of sale, as the case may be, and
 16 thereupon such ~~the~~ agent or co-owner or purchaser, as the
 17 case may be, ~~shall--be--deemed is~~ an elector within the
 18 meaning of this act. Where ~~Whenever~~ the total irrigable
 19 acreage within any one district has been platted or
 20 subdivided into lots or blocks to the extent of five-per
 21 cent-~~{5%}~~ or more of the total acreage of the district, each
 22 elector ~~shall-be is~~ permitted to cast one vote for each one
 23 acre of irrigable land or major fraction thereof owned by
 24 such ~~the~~ elector within the district, irrespective of the
 25 location of such irrigable lands within the tracts

1 designated by the commissioners for the assessment and
 2 taxation purposes or within the congressional subdivisions,
 3 but any elector owning any less than one 1 acre of irrigable
 4 land within ~~said the~~ district ~~shall-be is~~ entitled to one
 5 vote. The balloting shall take place in the following
 6 manner: ~~Ten-{10}~~ votes or less, separate ballots will be
 7 used; more than ~~ten-{10}~~ votes, the elector shall vote in
 8 blocks of ten ~~10~~ using one ballot for each ten ~~10~~ votes and
 9 separate ballots for odd votes over multiples of ten ~~10~~. The
 10 election shall otherwise conform with the provisions ~~set-out~~
 11 ~~in--section of 89-1308 of this chapter. it shall-be-the-duty~~
 12 ~~of--the the~~ chairman of the commissioners or such
 13 commissioner as he may ~~delegate--to shall~~ determine before
 14 each election whether the provisions of this paragraph
 15 ~~subsection~~ are in force or whether the provisions heretofore
 16 set out shall apply."

17 Section 20. Section 89-1319, R.C.M. 1947, is amended
 18 to read as follows:

19 "89-1319. Application of act. This act shall apply
 20 only when twenty ~~20~~ or more owners of land with water rights
 21 appurtenant thereto ~~serving-at-least-two-thousand-acres-of~~
 22 ~~land-contiguous-in-location-or-of-reasonably-compact-areas~~
 23 ~~at~~ are being served by one stream and its branches or from
 24 one source of water supply and in which the rights to the
 25 use of water shall have been determined by decree of a court

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

4 Section 21. Section 89-1320, R.C.M. 1947, is amended
 5 to read as follows:

6 "89-1320. Petition~~1~~ and notice~~2~~ order of
 7 court~~3~~ commissioners. Whenever the owners of land and water
 8 rights, as described in section 89-1319, desire to organize
 9 for the purposes mentioned in this act, a petition to that
 10 effect, signed by not less than ~~sixty-per-cent~~ 60% of the
 11 individual landowners who ~~shall~~ represent not less than
 12 ~~fifty-one-per-cent~~ 51% of the irrigable acres to be affected
 13 by such ~~the proposed~~ district and ~~fifty-one-per-cent~~ 51% of
 14 the inches ~~INCHES-OF-WATER-OR~~ cubic feet of water per
 15 ~~second~~ decreed or adjudicated in the stream ~~in from~~ which
 16 such ~~the~~ irrigation district is to operate, shall be filed
 17 with the clerk of the district court of the county or
 18 counties in which such ~~the~~ district is to be created. ~~It is~~
 19 ~~provided, however, that for~~ For the purposes ~~purpose~~ of
 20 determining whether the requirement requirements of acreage
 21 and cubic feet of water inches per second OR INCHES-OF-WATER
 22 ~~has have~~ been met by the petition, water diverted from the
 23 adjudicated stream and distributed under other irrigation
 24 districts ~~other~~ than the one to be created under this act,
 25 ~~shall may~~ not be considered; however, such water and acreage

1 shall be required to pay ~~any and~~ all assessments the same as
 2 other water and acreage affected by irrigation districts
 3 created under this act. Upon filing of ~~said the~~ petition,
 4 the court shall set a date for a hearing on the petition
 5 and a written notice not less than ~~five~~ 5 days prior to such
 6 ~~the~~ hearing shall be mailed to each landowner or water right
 7 owner affected by the proposed district. If the court finds
 8 from such hearing that an irrigation district, as prayed
 9 for in the petition, is feasible and practical, the court
 10 shall issue an order creating ~~such the~~ irrigation district,
 11 which shall constitute the authority for the district to
 12 function for the purposes and intent as outlined in this
 13 act. The court shall appoint five commissioners~~1~~ who ~~shall~~
 14 ~~be are~~ landowners or water right owners, affected by such
 15 district, to act until the first annual meeting~~as provided~~
 16 ~~hereafter."~~

17 Section 22. Section 89-1322, R.C.M. 1947, is amended
 18 to read as follows:

19 "89-1322. Duty of trustees~~1~~ ~~limit on~~ levy ~~to cover~~
 20 ~~expense--determination of levy--~~ and indebtedness other than
 21 ~~warrant--indebtedness--not--to--be--created.~~ The board of
 22 trustees ~~shall--be--authorized--to~~ may develop the source of
 23 supply; ~~to~~ clean, improve~~1~~ and develop the channel of the
 24 stream~~1~~ and ~~to~~ do and perform other work on the main
 25 distributing system as will be beneficial to the better

1 distribution of the waters of ~~such the~~ decreed water right
 2 stream, but in no case ~~shall~~ may the board, to cover the
 3 expenses of such work, levy to exceed ~~twenty-five~~ 25 cents
 4 per acre in any one year. ~~It is further provided, that when~~
 5 ~~Whenever~~ waters of the stream under the irrigation district
 6 created by this act, are commingled with other waters or it
 7 is difficult to determine just how many acres are irrigable
 8 by the water rights held in ~~such the~~ stream, the acre basis
 9 of levy shall be determined by the number of ~~inches~~ INCHES
 10 ~~OR cubic feet of water per second~~ owned by such party or
 11 parties at the rate of ~~one--inch--of--water--statutory~~
 12 ~~measurement, ONE--INCH--OF--WATER--STATUTORY MEASUREMENT, OR~~
 13 ~~.025 cubic feet of water per second~~ to the acre. ~~It is~~
 14 ~~further provided, that the~~ The board ~~shall have no authority~~
 15 ~~to may not~~ issue bonds or to incur any indebtedness other
 16 than warrant indebtedness under the limitations ~~proposed~~
 17 ~~imposed~~ by law."

18 Section 23. Section 89-1411, R.C.M. 1947, is amended
 19 to read as follows:

20 "~~89-1411. Hearing and notice publication~~ Notice of
 21 hearing. On such petition being filed, the district court or
 22 judge thereof shall make an order fixing the time and place
 23 of ~~for a~~ hearing ~~same~~ and directing that notice thereof be
 24 given. Thereupon the clerk of ~~said the~~ court shall cause to
 25 be published at least once a week for ~~two~~ 2 successive

1 calendar weeks, in the ~~official~~ a newspaper of general
 2 circulation in the county where ~~said the~~ petition is filed,
 3 WITH PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE
 4 COUNTY, a notice stating the time and place fixed by the
 5 district court ~~fixed~~ when and where the hearing on ~~said the~~
 6 petition will be had and containing a brief statement of the
 7 matters set forth in ~~said the~~ petition and the object
 8 thereof, ~~if~~ if any portion of the lands sought to be
 9 excluded from the district ~~lie~~ lies within any other county
 10 or counties, then ~~said the~~ notice shall also be published as
 11 provided above ~~provided~~ in the ~~official~~ a newspaper of such
 12 general circulation in the other county or counties, WITH
 13 PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE OTHER
 14 COUNTY OR COUNTIES. The first publication of ~~said the~~ notice
 15 ~~shall be~~ may not be less than ~~thirty~~ 30 days prior to the
 16 time mentioned in ~~said the~~ notice for ~~said the~~ hearing."

17 Section 24. Section 89-1616, R.C.M. 1947, is amended
 18 to read as follows:

19 "~~89-1616. Penalty for interfering~~ Interference with
 20 commissioners or with distribution system ~~-- penalty~~. Any
 21 person who ~~shall~~ in any manner ~~interfere~~ interferes with the
 22 commissioners of an irrigation district, or their lawful
 23 agent or employee in the carrying out of the powers
 24 conferred by this act, or who ~~shall change~~ changes or ~~temper~~
 25 ~~tampers~~ with any lock box, head gate, or other device for

1 the apportionment or distribution of water installed by or
 2 under the authority of such ~~the~~ commissioners or who shall
 3 in any manner obstruct ~~obstructs~~ or change ~~changes~~ the flow
 4 of water in the distribution system of any irrigation
 5 district without authority of the commissioners of the
 6 district, shall, in the discretion of the commissioners, be
 7 subject to a forfeiture of his right to the delivery of
 8 water through the distribution system of the district, so
 9 long as such acts shall continue, and shall likewise be is
 10 guilty of a ~~misdemeanor and on conviction, shall be~~
 11 ~~punishable by a fine of not less than ten dollars (\$10.00)~~
 12 ~~nor more than one hundred dollars (\$100.00), or by~~
 13 ~~imprisonment in the county jail for not less than one (1)~~
 14 ~~day nor more than thirty (30) days or by both such fine and~~
 15 ~~imprisonment obstructing a public officer or criminal~~
 16 ~~mischief, as appropriate, and is punishable as provided by~~
 17 ~~94-7-302 or 94-6-102, as applicable."~~

18 Section 25. Section 89-1701, R.C.M. 1947, is amended
 19 to read as follows:

20 "89-1701. Limitations on debt-incurring power. (1) The
 21 board of commissioners or other officers of the district
 22 shall have no power to may not incur any debt or liability
 23 whatever, either by issuing bonds or otherwise, except as
 24 provided in this act; ~~and any debt or liability incurred in~~
 25 ~~excess of such express provisions shall be and remain~~

1 ~~absolutely void, except that for the purpose of organization~~
 2 ~~or for any of the immediate purposes of this act, or to make~~
 3 ~~or purchase surveys, plans, and specifications, or for~~
 4 ~~stream gauging and gathering data, or to make any repairs~~
 5 ~~occasioned by any calamity or other unforeseen contingency,~~
 6 ~~the board of commissioners may, in any one year, incur the~~
 7 ~~indebtedness of as many dollars as there are acres in the~~
 8 ~~district, and may cause warrants of the district to issue~~
 9 ~~therefor. No irrigation district may become indebted, in any~~
 10 ~~manner or for any purpose in any one year, in an amount~~
 11 ~~exceeding 15% of the assessed valuation of the district,~~
 12 ~~except as provided in subsection (2).~~

13 (2) (a) For the purpose of organization; for any of
 14 the immediate purposes of this chapter; to make or purchase
 15 surveys, plans, and specifications; for stream gauging and
 16 gathering data; or to make any repairs occasioned by any
 17 calamity or other unforeseen contingency, the board of
 18 commissioners may, in any one year, incur the indebtedness
 19 of as many dollars as there are acres in the district and
 20 may cause warrants of the district to issue therefor.

21 (b) For the purpose of organization, for any of the
 22 immediate purposes of this chapter, or to meet the expenses
 23 occasioned by any calamity or other unforeseen contingency,
 24 the board of commissioners may, in any one year, incur (in
 25 addition to the 15% limitation of subsection (1)) an

1 ~~additional indebtedness not exceeding 10% of the assessed~~
 2 ~~valuation of the district and may cause warrants of the~~
 3 ~~district to issue therefor.~~

4 ~~(c) The limitation of subsection (1) does not apply to~~
 5 ~~warrants issued for unpaid interest on the valid bonds of~~
 6 ~~any irrigation district.~~

7 ~~(d) The limitation of subsection (1) does not apply to~~
 8 ~~any bonds issued under this chapter pursuant to a provision~~
 9 ~~which expressly supersedes the limitation.~~

10 ~~(3) Any debt or liability incurred in excess of the~~
 11 ~~limitations provided by the irrigation district laws is~~
 12 ~~void."~~

13 Section 26. Section 89-1703, R.C.M. 1947, is amended
 14 to read as follows:

15 "89-1703. Petition for bonds and action thereon
 16 issuance of bonds. (1) ~~for the purpose of providing the~~
 17 ~~necessary funds for constructing the necessary irrigation~~
 18 ~~canals and works including drainage works and works for~~
 19 ~~the generation and distribution of electrical energy within~~
 20 ~~said district and acquiring the necessary property and~~
 21 ~~rights therefore and for the purpose of acquiring by~~
 22 ~~purchase or otherwise waters water rights canals~~
 23 ~~reservoirs reservoir sites and irrigation works drainage~~
 24 ~~works and works for the generation and distribution of~~
 25 ~~electrical energy constructed or partially constructed and~~

1 ~~for the purpose of meeting the expense theretofore incurred~~
 2 ~~or to be thereafter incurred incident to such construction~~
 3 ~~or acquisition of such works and property including~~
 4 ~~administrative engineering and legal expenses and for the~~
 5 ~~assumption as principal or guaranty of indebtedness to~~
 6 ~~the United States on account of district lands and for the~~
 7 ~~purpose of otherwise carrying out the provisions of this~~
 8 ~~act and of providing a sum sufficient to pay the interest~~
 9 ~~on all of such bonds for five (5) years or less the board~~
 10 ~~of commissioners of any district heretofore or hereafter~~
 11 ~~organized under the provisions of this act may authorize~~
 12 ~~and issue the negotiable coupon bonds of the district as~~
 13 ~~and in the manner hereinafter provided. A sum sufficient to~~
 14 ~~redeem or pay all or any portion of the existing~~
 15 ~~indebtedness of such district evidenced by outstanding~~
 16 ~~bonds delinquent interest coupons and accrued interest or~~
 17 ~~warrants together with all delinquent and accrued interest~~
 18 ~~whether such indebtedness be due or not due or which has or~~
 19 ~~may hereafter become payable at the option of the district~~
 20 ~~or by consent of the bondholders or by any lawful means~~
 21 ~~may be included as a portion of the necessary funds for~~
 22 ~~which said bonds are authorized and issued. The board of~~
 23 ~~commissioners of a district established under the provisions~~
 24 ~~of chapter 12 of Title 89 may authorize and issue negotiable~~
 25 ~~coupon bonds for the district for the purpose of providing~~

1 the necessary funds:

2 (a) for constructing the necessary irrigation canals
3 and works, including drainage works, and constructing works
4 for the generation and distribution of electricity within
5 the district and for acquiring the property and rights
6 necessary therefor:

7 (b) for acquiring, by purchase or otherwise, waters,
8 water rights, canals, reservoirs, reservoir sites,
9 irrigation works, drainage works, and works for the
10 generation and distribution of electricity, whether such
11 works are constructed or partially constructed;

12 (c) for meeting the expense incurred incident to the
13 construction or acquisition of such works and property,
14 including administrative, engineering, and legal expenses;

15 (d) for assuming, as principal or guarantor,
16 indebtedness to the United States on account of district
17 lands;

18 (e) for providing a sufficient amount of money to pay
19 the interest on all negotiable coupon bonds of the district
20 for a period not exceeding 5 years;

21 (f) for redeeming or paying all or any portion of the
22 existing indebtedness of the district, evidenced by
23 outstanding bonds, delinquent interest coupons and accrued
24 interest; or warrants, together with all delinquent and
25 accrued interest, whether such indebtedness has or may

1 hereafter become payable at the option of the district, by
2 consent of the bondholders or by any lawful means; or

3 (g) for otherwise carrying out the provisions of the
4 irrigation district laws.

5 (2) No bonds provided for in this section ~~shall~~ may be
6 authorized or issued by or on behalf of any irrigation
7 district organized hereunder, and no contract ~~shall~~ may be
8 made with the United States as provided in ~~section~~ 89-1301
9 provided, except upon a petition signed by at least sixty
10 ~~per--centum--(60%)~~ 1 in number and acreage 1 of the holders of
11 title or evidence of title to lands included within ~~said the~~
12 district, or by ~~seventy-five-per-centum at least (75%)~~ 1 in
13 number and acreage 1 of the holders of title or evidence of
14 title to such lands who are residents of the county or
15 counties in which lands of the district are situated. Such
16 ~~The~~ petition shall be addressed to the board of
17 commissioners 1 ~~shall~~ set forth the aggregate amount of
18 bonds to be issued, and the purpose or purposes thereof 1
19 ~~shall~~ have attached thereto an affidavit verifying the
20 signatures to ~~said the~~ petition 1 and ~~shall~~ be filed with
21 the secretary of the board of commissioners. When bonds 1
22 ~~however~~ are issued for the sole purpose of redeeming or
23 paying the existing and outstanding bonds or warrants, or
24 both, including delinquent and accrued interest, of such
25 district, such bonds may be authorized and issued in the

1 manner provided for by ~~sections~~ 89-1712 and 89-1713.

2 (3) Upon the filing of ~~such the~~ petition, the board of
3 commissioners shall, by appropriate order or resolution,
4 authorize and direct the issuance of the bonds of the
5 district to the amount and for the purpose or purposes
6 specified in the petition; ~~fix~~ the numbers, denominations,
7 and maturity or maturities of ~~said the~~ bonds; specify the
8 rate of interest thereon; and whether payable annually or
9 semiannually; designate the place of payment of ~~said the~~
10 bonds and the interest coupons, within or without the state
11 of Montana; prescribe the form of ~~said the~~ bonds and
12 interest coupons to be attached thereto; and provide for the
13 levy of a special tax or assessment as provided in this act
14 provided on all the lands in the district for the irrigation
15 and benefit of which ~~said the~~ district was organized and
16 ~~said the~~ bonds are issued; or ~~said the~~ contract is to be
17 made, sufficient in amount to pay the interest on and
18 principal of ~~said the~~ bonds when due and all amounts to be
19 paid to the United States under any contract between the
20 district and the United States, accompanying which bonds of
21 the district have not been deposited with the United States
22 as provided in section 89-1301 provided.

23 (4) If contract is to be made with the United States
24 as provided in section 89-1301 provided, and bonds are not
25 to be deposited with the United States in connection with

1 ~~such the~~ contract, the board of commissioners need not
2 authorize the issuance of bonds, or if bonds are required in
3 addition to ~~such the~~ contract, ~~the commissioners~~ may
4 authorize bonds only for the amount needed in addition to
5 ~~such the~~ contract. Such order or resolution shall also
6 provide for the confirmation proceedings in the district
7 court hereinafter-mentioned as provided in 89-1704."

8 Section 27. Section 89-1704, R.C.M. 1947, is amended
9 to read as follows:

10 "89-1704. Confirmation by district court. (1) Within
11 ten-~~10~~ days after the adoption of the order or resolution
12 mentioned in the preceding section, the board of
13 commissioners shall file a petition in the district court of
14 the judicial district wherein ~~where is located~~ the office of
15 ~~said the board~~ is located to determine the validity of the
16 proceedings ~~had~~ relative to the issuance of ~~said the~~ bonds
17 and to the levy of ~~said the~~ special tax or assessment.

18 (2) Such action shall be in the nature of a proceeding
19 in rem, and jurisdiction of all parties interested shall be
20 had by giving notice given-as-hereinafter-provided. ~~Such the~~
21 petition shall set forth:

22 (1)(a) generally, the establishment and organization
23 of the district;

24 (2)(b) a certified copy of the petition mentioned in
25 the preceding section;

1 ~~(3)(c)~~ a certified copy of the order or resolution
2 mentioned in the preceding section;

3 ~~(4)(d)~~ a prayer for the confirmation of the
4 proceedings of the board stated in the petition, and for the
5 confirmation of the bond issue and the special tax or
6 assessment levied to pay the bonds and interest thereon.

7 ~~(2)(3)~~ Upon the filing of ~~said this~~ petition in the
8 district court, the court ~~or judge thereof~~ shall fix the
9 time for the hearing of ~~said the~~ petition, which ~~shall~~ may
10 not be less than ~~fifteen-(15)~~ days from the date of filing
11 the petition in ~~said the~~ court, and shall order the clerk of
12 the court to give notice of the filing of ~~said the~~ petition
13 and the date of the hearing thereon, by publication at least
14 once a week for two 2 calendar weeks in a newspaper
15 published or of general circulation in the county where the
16 office of the board of commissioners of the district is
17 situated, and also by posting a written or printed copy of
18 such notice in at least three public places in each division
19 of the district, the first of such publications and such
20 posting to be not less than ~~fifteen-(15)~~ days prior to the
21 date fixed for ~~said the~~ hearing.

22 ~~(3)(4)~~ ~~Said the~~ notice shall state the substance of
23 the petition and the time and place fixed for the hearing
24 thereon, and that any person interested in or whose rights
25 may be affected by the issuance or sale of ~~said the~~ bonds,

1 or the levy of ~~said the~~ special tax or assessment, or the
2 proceedings had or to be had by the ~~said~~ board of
3 commissioners with respect to ~~said such~~ matters, may, on or
4 before the day fixed for the hearing of ~~said the~~ petition,
5 ~~demur-to-or~~ answer ~~said the~~ petition, and may appear at ~~said~~
6 ~~the~~ hearing and contest the granting of the prayer of ~~said~~
7 ~~the~~ petition, and the entry of any order of confirmation
8 pursuant thereto.

9 (5) Any person interested in or whose rights may be
10 affected by the issuance or sale of ~~said the~~ bonds, or the
11 levy of ~~said the~~ special tax or assessment, or the
12 proceedings had or to be had by the board of commissioners
13 of the district in connection with ~~said such~~ matters, and
14 the entry of any order of confirmation pursuant thereto, may
15 enter his appearance in such proceedings and ~~demur-to-or~~
16 answer ~~said the~~ petition and contest the granting of the
17 prayer of ~~said the~~ petition.

18 ~~(4)(6)~~ The provisions of Title 93 respecting the
19 demurrer--or answer to a verified complaint ~~shall-be are~~
20 applicable to a ~~demurrer-or an~~ answer to ~~said the~~ petition.
21 The persons so ~~demurring-to-or~~ answering ~~said the~~ petition
22 ~~shall-be are~~ the defendants in the proceeding, and the board
23 of commissioners ~~shall-be is~~ the plaintiff. Every material
24 statement of the petition, not specifically controverted by
25 the answer, shall be taken as true, and every holder of

1 title or evidence of title to lands included in the district
2 failing to answer ~~or demur to~~ the petition shall be deemed
3 ~~considered~~ to admit as true all the material statements
4 hereof ~~thereof~~. The procedure in such action shall be
5 determined by Title 93.

6 ~~{5}{7}~~ Upon the hearing, the district court shall find
7 and determine whether the provisions and requirements of the
8 preceding section have been complied with, and ~~whether~~
9 notice of the filing of the petition in the district court
10 and of the time and place of the hearing thereon has been
11 ~~duty~~ given for the time and in the manner herein prescribed,
12 and ~~shall have power and jurisdiction to~~ may examine and
13 determine the regularity, legality, and validity of the
14 proceedings had preliminary and relative to the issuance of
15 the bonds, and the levy of the special tax or assessment in
16 the petition mentioned, and the legality and validity of
17 ~~said the~~ bonds and special tax or assessment, and ~~any~~ and
18 all actions taken by the board of commissioners in
19 connection with ~~said such~~ matters, and shall hear all
20 objections filed to ~~said the~~ proceedings, or any part
21 thereof, or to the issuance of ~~said the~~ bonds, or the levy
22 of the ~~said~~ special tax or assessment or any portion
23 thereof. The court, in inquiring into the regularity,
24 legality, and validity of ~~said the~~ proceedings, shall
25 disregard any error, omission, or other irregularity which

1 does not affect the substantial rights of the parties to
2 ~~said the~~ proceedings. The court may ratify, approve, and
3 confirm ~~said the~~ proceedings in whole or in part, and may
4 ratify, approve, and confirm ~~said the~~ bonds and special tax
5 or assessment, and enter its judgment ~~or decree~~ accordingly.

6 ~~{6}{8}~~ From any such judgment ~~or decree~~ an appeal may
7 be taken to the supreme court at any time within ~~ten~~ ~~{10}~~
8 days from the entry of ~~such the~~ judgment ~~or decree~~. ~~Such the~~
9 appeal shall be taken, perfected, and heard in the manner
10 prescribed by Title 93 covering appeals from district courts
11 to the supreme court. If no such appeal be ~~is~~ taken within
12 the ~~in~~ time aforesaid, or if taken and the judgment or
13 decree of the district court be ~~is~~ affirmed by the supreme
14 court, ~~such the~~ judgment ~~or decree~~ ~~shall be forever~~
15 ~~conclusive upon all the world as to the validity of such~~
16 ~~bonds and said special tax or assessment and the same shall~~
17 ~~never be called into question in any court in the state is~~
18 ~~final~~. The costs of ~~said the~~ proceedings shall be allowed or
19 apportioned between the parties in the discretion of the
20 court."

21 Section 28. Section 89-1705, R.C.M. 1947, is amended
22 to read as follows:

23 "89-1705. Details relating to bonds. (1) All bonds
24 issued under the provisions of this act ~~shall be payable in~~
25 ~~gold coin of the United States, of the standard weight and~~

1 ~~finances--[fineness]--existing-at-the-time-of-the-issue; and~~
 2 shall run for a period not longer than ~~forty--(40)~~ years from
 3 their date, but may contain a clause providing for their
 4 prior redemption and payment, at the option of the board of
 5 commissioners of the district, on any interest payment date
 6 after ~~five--(5)~~ years from their date. Instead of straight
 7 maturity bonds, bonds may be issued to mature serially at
 8 such times and in such amounts as the board of commissioners
 9 shall determine, but no bonds so issued ~~shall~~ may run for a
 10 longer period than ~~forty--(40)~~ years from the date of issue.
 11 Said the bonds shall bear interest from their date until
 12 paid, payable annually or semiannually, with the
 13 installments of interest to date of maturity of principal to
 14 be evidenced by appropriate coupons attached to each bond.
 15 Said the bonds and interest coupons shall be payable at such
 16 place or places, within or without the state of Montana, as
 17 the board of commissioners shall prescribe.

18 (2) Such the bonds shall be of such denomination or
 19 denominations, and in such form, as the board of
 20 commissioners shall prescribe. An issue of bonds is hereby
 21 defined to be all the bonds issued in accordance with a
 22 resolution or order of the board of commissioners. Each
 23 issue of the bonds of a district shall be numbered
 24 consecutively as authorized, and the bonds of each issue
 25 shall be numbered consecutively. The board of commissioners

1 shall fix the date of ~~said the~~ bonds, or they may divide any
 2 issue into two ~~(2)~~ or more divisions and fix different dates
 3 for the bonds of each ~~respective~~ division. The date of any
 4 bond must be subsequent to the order or resolution
 5 authorizing it and prior to its delivery to a purchaser from
 6 the district.

7 (3) All bonds issued hereunder shall be signed by the
 8 president and attested by the secretary of the board under
 9 the corporate seal of the district, and each of the interest
 10 coupons to be attached to ~~said the~~ bonds shall be executed
 11 by the signatures of ~~said the~~ president and secretary. Each
 12 bond shall be signed, and each interest coupon shall be
 13 executed, by the president and secretary of the board of
 14 commissioners who may be in office at the date of ~~said the~~
 15 bond and coupons, or at any time thereafter prior to the
 16 delivery of ~~said the~~ bond to the purchaser thereof from the
 17 district.

18 (4) The board of commissioners may provide for the
 19 registration of bonds in their discretion. The secretary of
 20 the board of commissioners and county treasury ~~each~~ shall
 21 each keep a record of the bonds sold, or otherwise disposed
 22 of, i their date, number, amount, maturity, or maturities, i
 23 to whom sold, i rate of interest, i and the place or places of
 24 payment thereof."

25 Section 29. Section 89-1713, R.C.M. 1947, is amended

1 to read as follows:

2 "89-1713. Purpose of bonds -- petition, requirements,
3 and contents of. (1) Any An irrigation district may issue
4 such refunding bonds for the purpose of redeeming or paying
5 the indebtedness, or any portion thereof, of the district,
6 whether represented by existing and outstanding bonds,
7 interest coupons thereof, or warrants, or--both, including
8 accrued and unpaid interest on said the bonds, coupons, and
9 warrants, and whether such indebtedness be is due or not
10 due, or which has or may hereafter become payable at the
11 option of the district, or by consent [of] the bondholders
12 or warrant holders, or--both, or by any legal means, and
13 whether such indebtedness be is now existing or may
14 hereafter be created, and there shall not be funds in the
15 treasury of such the district are not available for the
16 payment of the same. Such the refunding bonds may be issued
17 in one or more series. The petition for such the refunding
18 bonds, signed, as required by law, by at least sixty-per
19 centum-{60%} in number and acreage of the holders of title
20 or evidence of title to the lands included within said the
21 district, and addressed to the board of directors or
22 commissioners of the district, may contain the following
23 specifications, in addition to the matters now required by
24 law--viz:

25 (a) How how many series of bonds shall be issued; and

1 (b) The the terms, conditions, and liens of the said
2 bonds, and the terms and conditions upon which each of said
3 the series of bonds shall be exchanged for outstanding bonds
4 of said the district, if the same are to be exchanged and
5 not sold, and any such specifications when set forth in the
6 said petition shall be controlling upon the said board of
7 directors or commissioners. The petitioners shall set forth
8 with particularity in such specifications the contract of
9 exchange to be made and they shall have power to include
10 therein any term, requirement, grant, transfer of property
11 or rights, covenant and condition whatsoever that shall be
12 deemed by the said petitioners to be for the best interests
13 of the said district, and that the board of directors or
14 commissioners of the district shall have the power to
15 authorize and direct the issuance of the said bonds
16 accordingly and to make any such contract and to bind the
17 irrigation district thereby.

18 (2) The specifications provided for in subsection (1),
19 when set forth in the petition, are controlling upon the
20 board of directors or commissioners. The petitioners shall
21 in the specifications set forth the contract of exchange to
22 be made, with particularity. The contract may include any
23 term, requirement, grant, transfer of property or rights,
24 covenant, or condition considered by the petitioners to be
25 in the best interest of the district. The petition shall

~~state that the board of directors or commissioners of the district may authorize and direct the issuance of bonds according to the specifications of the petition, make any such contract, and bind the irrigation district under the contract."~~

Section 30. Section 89-1801, R.C.M. 1947, is amended to read as follows:

"89-1801. Tax or assessment to pay bonds and interest.

(1) All bonds and the interest thereon issued hereunder and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in section 89-1301 provided, shall be paid by revenue derived from a special tax or assessment levied ~~as hereinafter provided~~ upon all the lands included in the district, except upon ~~such those~~ lands as ~~that~~ have been included in ~~such the~~ district on account of the exchange or substitution of water under the provisions of section 89-1611, if ~~any~~ there ~~be~~ are any. ~~and all the~~ All lands in the district at the time ~~said the~~ bonds are issued, and all lands subsequently included which are so chargeable under the provisions of this act, shall be and remain liable to be taxed and assessed for the payment of ~~said the~~ bonds and interest, and all payments due or to become due to the United States under

any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in section 89-1301 provided.

(2) ~~it shall be the duty of the~~ The board of commissioners of the district, in the order or resolution authorizing and directing the issuance of bonds of the district, mentioned in section 89-1703, to shall provide for the annual levy and collection of a special tax or assessment upon all the lands included in the district and subject to taxation and assessment ~~as aforesaid~~, sufficient in amount to meet the interest on ~~said the~~ bonds promptly when and as the same accrues, and to discharge the principal thereof at their maturity, or respective maturities, and to meet all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in section 89-1301 provided, at the times such payments by such contract become due and payable. ~~Where~~ When straight maturity bonds are issued, ~~it shall be the duty of the~~ board of commissioners of the district to shall create and maintain a sinking fund sufficient to pay and discharge ~~said the~~ bonds at maturity. If ~~said the~~ bonds ~~shall be~~ are issued for ~~twenty~~ {20} years or less, there shall be annually

1 levied for such ~~the~~ sinking fund a special tax or
 2 assessment ~~as aforesaid~~ sufficient to produce a net amount
 3 represented by the quotient found by dividing the aggregate
 4 amount of the principal of the bonds by the number of years
 5 the bonds have to run; but if ~~said the~~ bonds are issued for
 6 more than ~~twenty--(20)~~ years, then it ~~shall~~ is not be
 7 necessary to levy a special tax or assessment for sinking
 8 fund until the ~~twentieth~~ 20th year prior to the maturity of
 9 the bonds, at which time and each year thereafter there
 10 shall be levied and collected a special tax or assessment
 11 sufficient to produce a net sum equal to one-twentieth
 12 ~~(1/20)~~ part of the aggregate amount of the principal of the
 13 bonds.

14 (3) A certified copy of such resolution shall be filed
 15 with the clerk of the board of county commissioners of each
 16 county in which the lands of the irrigation district lie,
 17 and the special tax or assessment therein provided for shall
 18 be levied and collected as ~~hereinafter~~ prescribed and when
 19 so collected shall, by the county treasurer having custody
 20 of the funds of the district, be placed in a special fund
 21 and used solely for the payment of all ~~amounts due or to~~
 22 ~~become due to the United States under any contract between~~
 23 ~~the district and the United States, accompanying which bonds~~
 24 ~~of the district have not been deposited with the United~~
 25 ~~States as in section 89-1301 provided, and for the payment~~

1 ~~of the interest on and principal of said bonds when due, so~~
 2 ~~long as any of said bonds or the interest coupons thereto~~
 3 ~~appertaining remain outstanding and unpaid bonds issued~~
 4 ~~under the provisions of this chapter and interest thereon,~~
 5 ~~so long as any of the bonds or interest coupons remain~~
 6 ~~outstanding and unpaid. Whenever the payments are made for~~
 7 ~~amounts due or to become due to the United States, under a~~
 8 ~~contract between the district and the United States,~~
 9 ~~accompanying which bonds of the district have not been~~
 10 ~~deposited with the United States as provided in 89-1301, the~~
 11 ~~special fund shall be known as the United States contract~~
 12 ~~fund.~~

13 (4) In the event that for any reason any a special tax
 14 or assessment ~~hereinabove~~ provided for cannot or ~~shall~~ may
 15 not be levied and collected in time to meet any interest
 16 falling due on any bonds issued hereunder, then the board of
 17 commissioners shall ~~have the power and authority, and it~~
 18 ~~shall be their duty~~ to provide for and pay such interest
 19 when due, either out of any of the funds in hand in the
 20 treasury of the district not otherwise appropriated, or by
 21 warrants drawn against the next district tax or assessment
 22 levied or to be levied. ~~Said~~ These warrants shall be in
 23 addition to those mentioned in section 89-1701.

24 (5) The board of commissioners shall ~~have power and~~
 25 ~~authority to~~ direct the investment of the funds in any bond

1 sinking fund ~~aforsaid~~ in interest-bearing securities
 2 whenever in their judgment the ~~same investment~~ may be to the
 3 best interest of the district. ~~But-att~~ All such securities
 4 shall be converted into cash in time to meet the principal
 5 on the bonds, payable from such sinking fund promptly at
 6 their maturity."

7 Section 31. Section 89-1803, R.C.M. 1947, is amended
 8 to read as follows:

9 "89-1803. All irrigable lands chargeable alike. (1)
 10 All irrigable lands in each irrigation district, except such
 11 lands ~~as--have--been that are~~ included within such the
 12 district ~~on-account because~~ of the exchange or substitution
 13 of water, under the provisions of section 89-1611, shall pay
 14 at the same rate for all purposes for which ~~said the~~ lands
 15 are charged, ~~providing--however~~ except as otherwise
 16 provided by law, ~~that--there There~~ may be a minimum charge of
 17 ~~five--dollars--(\$5.00)~~ against each separately owned tract of
 18 land regardless of its size, as hereinafter provided in
 19 section 89-1804, ~~and--except--that--whenever Whenever~~ water
 20 used for the irrigation of any lands within an irrigation
 21 district ~~shall--be is~~ obtained by pumping to different
 22 elevations, the cost of maintenance, operation, and pumping
 23 to each separate elevation shall be apportioned and levied
 24 upon the lands lying under the ditch or ditches running from
 25 that particular elevation, in such manner as may be

1 determined fair and equitable by the board of commissioners
 2 after considering the facts in each case. Such ~~This~~
 3 apportionment shall be made by the board of commissioners
 4 and included each year in the assessment provided for by
 5 section 89-1804.

6 (2) The amount of ~~such the~~ assessment for maintenance,
 7 operation, and pumping of water to each separate elevation,
 8 whenever there are different elevations, shall be determined
 9 by the board of commissioners in such manner, and upon such
 10 notice to the persons interested in ~~said the~~ district, as
 11 ~~said the~~ board in its rules ~~and--regulations~~ may provide, ~~and--provided--further--that--where Whenever a~~ contract ~~shall~~
 12 ~~have has~~ been made with the United States, the lands within
 13 the district, whether originally included or later annexed
 14 to the district, shall pay in accordance with the federal
 15 reclamation laws and the public notices, orders, and
 16 regulations issued thereunder, and in compliance with any
 17 contracts made by the United States with the owners of ~~said~~
 18 ~~the~~ lands, and in compliance ~~further~~ with the contract
 19 between the districts and the United States, ~~and--provided~~
 20 ~~further--that--where Whenever~~ the works necessary for the
 21 completed project ~~shall--be are~~ constructed progressively,
 22 over a period of years, and ~~that--where Whenever~~ a portion of
 23 the lands within the district are or can be irrigated ~~one 1~~
 24 year or more before the completion of the entire project,
 25

1 ~~then-and-in-that-case-such those~~ lands, so irrigated or
 2 that can be so irrigated through the built portion of the
 3 project, shall pay for the cost of operating that portion of
 4 the project serving them with irrigation water, and also
 5 shall pay such portion of the interest charges as its
 6 irrigable area bears to the irrigable area of the entire
 7 project. ~~and-in-case-of~~ whenever lands having have
 8 appurtenant thereto a partial water right or partial rights
 9 in a system of irrigation other than that of the districts,
 10 the amounts payable shall be equitably apportioned."

11 Section 32. Section 89-1805, R.C.M. 1947, is amended
 12 to read as follows:

13 "89-1805. Determination Procedure for the
 14 determination of irrigable area. (1) For the purpose of
 15 determining the number of acres of irrigable lands in each
 16 ~~forty-acre 40-acre~~ tract or fractional lot as designated by
 17 the United States public survey, or platted lot, if land is
 18 subdivided in lots and blocks (or where whenever land shall
 19 be is owned in less than ~~forty-acre 40-acre~~ tracts or in
 20 less than the platted lot, then against in each such tract)
 21 of land in the district, the board of commissioners of any
 22 irrigation district ~~organized--hereunder~~ established under
 23 the provisions of chapter 12 of Title 89, whenever deemed
 24 considered advisable and at any time except as otherwise
 25 provided, may cause a careful topographical survey and map

1 of ~~said the~~ lands to be made, as well as a specific
 2 examination of the character of the soil of each ~~such~~ tract.
 3 Upon completion of ~~such the~~ survey and maps, and
 4 examination, the board shall give notice that at a meeting
 5 of ~~said the~~ board, to be held at the office of the board on
 6 a day to be fixed in ~~said the~~ notice, ~~said the~~ board will
 7 determine the irrigable area of each ~~such~~ tract of land in
 8 the district and that it will hear and consider any
 9 objection on the part of any landowner in the district to
 10 ~~such the~~ determination and to adjustment of the irrigable
 11 area of ~~said the~~ district or of any lands within any tract
 12 or subdivision thereof. It ~~shall-not-be~~ is not necessary to
 13 describe ~~said the~~ tracts in ~~said the~~ notice. ~~Such the~~
 14 notice shall be given by publication, once a week for two 2
 15 successive calendar weeks, in a newspaper of general
 16 circulation in the county where the office of the board is
 17 located, and where whenever lands of any irrigation district
 18 lie in more than one county, ~~such the~~ notice shall also be
 19 published in a newspaper or newspapers of general
 20 circulation in each ~~such~~ county. The last publication of
 21 ~~said the~~ notice shall be at least ~~five 5~~ days prior to the
 22 date fixed for ~~said the~~ meeting.

23 (2) At ~~such the~~ meeting, the board shall proceed to
 24 determine and fix the number of acres in each tract or
 25 subdivision irrigable from the works or proposed works of

1 the district, and shall hear all persons interested who may
 2 appear, and shall continue in session from day to day
 3 (exclusive of Sundays and legal holidays) as long as may be
 4 necessary and until ~~said the~~ determination of irrigable area
 5 ~~shall have been~~ is completed. The board shall hear and
 6 ~~receive~~ all evidence offered, including maps and surveys
 7 caused to be prepared by it as well as maps and surveys
 8 prepared by any owner of lands. Upon such determination,
 9 the irrigable area so fixed shall become, and thereafter be,
 10 the acreage upon which any special tax or assessment shall
 11 be levied, and each irrigable acre shall pay at the same
 12 rate as every other acre of irrigable land in ~~said the~~
 13 district, ~~shall pay, and except as otherwise provided by~~
 14 ~~law, any~~ Any special tax or assessment levied for any
 15 purpose ~~shall be~~ is a lien upon the entire forty-acre
 16 ~~40-acre~~ tract or fractional lot as designated by the United
 17 States public survey, or platted lot, if land is subdivided
 18 in lots and blocks (or where ~~whenever~~ land ~~shall be~~ is owned
 19 in less than ~~forty-acre 40-acre~~ tracts or in less than the
 20 platted lot, then against each such tract) of land in the
 21 district of which ~~said the~~ irrigable area forms a part, and
 22 ~~said the~~ lien shall attach to ~~said the~~ entire tract as of
 23 ~~the first day of~~ January 1 in the year in which ~~said the~~
 24 special tax or assessment is levied.

25 (3) Upon completing ~~such the~~ determination, the board

1 shall fix, by appropriate resolution or order, the total
 2 acreage and the irrigable acreage of each such tract or
 3 subdivision, and shall cause to be prepared a list of all
 4 lands in ~~said the~~ district, which list shall contain an
 5 accurate description of each ~~such forty-acre 40-acre~~ tract
 6 or fractional lot as designated by the United States public
 7 survey, or platted lot, if land is subdivided in lots and
 8 blocks (or where ~~whenever~~ land ~~shall be~~ is owned in less
 9 than ~~forty-acre 40-acre~~ tracts or in less than the platted
 10 lot, then against of each such tract) of land in ~~said the~~
 11 district, the total acreage and the number of irrigable
 12 acres therein as so fixed and determined, and the name of
 13 the owner, or holder of title or evidence of title thereof,
 14 ascertained as provided in section 89-1201. ~~Such~~ ~~this~~ list,
 15 when completed and adopted, shall be filed in the office of
 16 the board of commissioners and shall remain there for public
 17 inspection. A certified copy of ~~such the~~ resolution and
 18 list shall be filed with the county clerk and recorder of
 19 each county in which any portion of the lands in ~~said the~~
 20 district are situated, ~~provided, however, there shall be~~
 21 ~~omitted from such copy the~~ lands not situated in the county
 22 in which such copy is filed ~~shall be omitted from the copy.~~

23 (4) No special tax or assessment ~~shall may~~ be levied
 24 against any ~~forty-acre 40-acre~~ tract, or fractional lot as
 25 designated by the United States public survey, or platted

1 lot, if land is subdivided in lots and blocks (or where
 2 ~~whenever~~ lands ~~shall-be~~ ~~are~~ owned in less than forty-acre
 3 ~~40-acre~~ tracts or in less than the platted lot, then against
 4 each such tract) found by ~~said the~~ board to contain no
 5 irrigable land; nor ~~shall~~ ~~may~~ any lien created after the
 6 order of determination ~~herein--provided-for~~ attach to any
 7 such tract, nor ~~shall~~ ~~may~~ the owners or owners of any tract
 8 or tracts have any vote or votes in any proceeding or
 9 election under the provisions of Chapter 146 of the Laws of
 10 1909, or any amendment thereof, or act supplementary
 11 thereto, after the making of such order, unless ~~his-said~~
 12 ~~their~~ land, or a portion thereof, ~~be~~ ~~is~~ found by ~~said the~~
 13 board to contain an area irrigable from the works, or
 14 proposed works, of ~~said the~~ district.

15 (5) Upon the determination provided for in this
 16 section, the board of commissioners ~~shall-have-the-power-to~~
 17 ~~may~~ refund any taxes paid, or cancel any unpaid taxes or
 18 assessments levied upon an acreage in excess of that so
 19 fixed by ~~said the~~ order of determination, and where ~~whenever~~
 20 necessary, may issue warrants therefor.

21 (6) Within ~~sixty~~ 60 days after such ~~the~~ resolution
 22 adopting ~~said the~~ list, the board of commissioners may
 23 petition the district court for confirmation of their acts
 24 in determining the irrigable area, ~~as-aforesaid~~, and in
 25 refunding or canceling any taxes or assessments. The

1 majority in number and acreage of the holders of title or
 2 evidence of title to lands in ~~said the~~ district, ascertained
 3 as provided in this act ~~provided~~, may, likewise, within such
 4 ~~sixty-day~~ 60-day period, petition the district court for
 5 review of the actions of the board of commissioners. ~~But~~
 6 ~~However~~, one of such ~~these~~ proceedings, if prosecuted to
 7 determination, ~~shall-be~~ ~~is~~ exclusive of the other. Upon
 8 such proceeding, the court may order any assessment of taxes
 9 upon any land or lands to be reduced or raised according to
 10 the irrigable area as found by the court, or taxes
 11 previously levied upon any area shown to be excessive, to be
 12 refunded or canceled.

13 (7) The provisions of ~~section 89-1402~~, regarding the
 14 procedure as well as the right and time to appeal, ~~shall~~
 15 apply to any proceeding instituted ~~in--pursuance--of--the~~
 16 ~~provisions--of~~ pursuant to this section; provided, ~~however~~
 17 that nothing in this section ~~shall-be-deemed-or-construed-to~~
 18 ~~effect-or-impair~~ affects or impairs the lien of any bonds
 19 issued by the district, ~~and-provided-further-that-if~~ ~~If~~
 20 confirmation proceedings are held and a certified copy of
 21 the order of confirmation ~~be~~ ~~is~~ filed with the county clerk
 22 and recorder of the county in which any portion of ~~said the~~
 23 lands is situated, it ~~shall-not-be~~ ~~is~~ not necessary to file
 24 in ~~said the~~ office the certified copy of the resolution and
 25 order of the board, or of the list, ~~hereinafore~~ provided for

1 in this section.

2 (8) ~~Provided, however, that where~~ Whenever districts
3 have been established in order to co-operate cooperate with
4 the United States under the federal reclamation laws
5 ~~heretofore or hereafter enacted~~ or under any act of
6 Congress, ~~congress~~ which ~~shall permit~~ of permits the
7 performance by the United States of work in this state, for
8 the purposes of construction of irrigation works, including
9 drainage works, or for purchase, extension, operation, or
10 maintenance of construction works, or for the assumption as
11 principal or guaranty of indebtedness to the United States
12 on account of district ~~tax~~ lands, the determination of the
13 irrigable area of the lands in ~~said the~~ district may be made
14 by the ~~said~~ board of commissioners in the manner provided in
15 this section provided or by the United States at the option
16 of the latter, and, if the United States determines the
17 irrigable area, the proceeding for the apportionment and
18 distribution of the costs of the proposed works or
19 improvements, ~~hereinafter~~ provided for in section 89-1806
20 shall may not be had."

21 Section 33. Section 89-1806, R.C.M. 1947, is amended
22 to read as follows:

23 "89-1806. Determination of irrigable area
24 apportionment and distribution of costs of proposed works or
25 improvements Apportionment of costs when bonds issued. (1)

1 Whenever a petition for the issuance of bonds of any
2 irrigation district ~~organized hereunder shall have~~
3 established under the provisions of chapter 12 of Title 89
4 has been filed, as hereinbefore provided in section 89-1703
5 provided, the board of commissioners of ~~such the~~ district
6 shall examine or cause to be examined, each ~~forty-acre~~
7 40-acre tract or fractional lot as designated by the United
8 States public survey, or platted lot, if land is subdivided
9 in lots and blocks (or where ~~where~~ whenever land ~~shall be~~ is owned
10 in less than ~~forty-acre~~ 40-acre tracts or in less than the
11 platted lot, then ~~against~~ each such tract) of land in ~~said~~
12 ~~the~~ district, and cause a careful topographical survey and
13 map to be made, in the manner provided for in section
14 89-1805. Upon such examination, the board shall determine
15 the number of irrigable acres in each such tract, and shall
16 apportion and distribute the cost of the works or
17 improvements for which ~~said the~~ bonds are to be issued, over
18 the tracts within ~~said the~~ district according to the
19 irrigable area in each of ~~said the~~ tracts or subdivisions,
20 so that each such irrigable acre ~~shall be~~ is required to
21 bear the same burden of such costs as each other irrigable
22 acre in ~~said the~~ district, ~~and the~~ except as otherwise
23 provided by law. The special tax or assessment levied to
24 meet the principal of and interest on ~~said the~~ bonds so
25 authorized, ~~shall become~~ is a lien upon the entire tract of

1 which such irrigable area forms a part or portion as of the
 2 ~~first-day-of~~ January 1 of the year in which such ~~the~~ special
 3 tax or assessment is levied, and the number of irrigable
 4 acres in each such tract as so determined ~~shall may~~ not be
 5 diminished but may be increased during the term for which
 6 any such bonds ~~may-be are~~ issued or until the bonds ~~shall-be~~
 7 ~~are~~ liquidated in full.

8 (2) ~~Provided, however, that if Whenever~~ a proceeding
 9 for the determination, in whole or in part, of the irrigable
 10 area of the lands in ~~said the~~ district has already been had
 11 or a topographical survey or maps thereof prepared, or a
 12 court confirmation of ~~said~~ prior proceedings had, in part or
 13 in full, the ~~said~~ board may, in its discretion, adopt all or
 14 such portions of ~~said the~~ prior proceedings, and ~~in-such-an~~
 15 ~~event, it shall not be necessary to need not~~ cause an
 16 additional survey or maps or examination of any of such
 17 tracts to be ~~again~~ made, or to redetermine the irrigable
 18 area of any such tract.

19 (3) The board shall make such determination after ~~the~~
 20 hearing ~~had~~ and shall fix the total acreage and the
 21 irrigable acreage, and shall cause a list of such irrigable
 22 area to be made and filed, and the proceedings of the board
 23 in connection with such determination, including ~~said the~~
 24 hearing and notice of ~~said the~~ hearing, and order or
 25 resolution fixing the irrigable area and the preparation and

1 filing of ~~said the~~ list, shall conform to the requirements
 2 set forth in section 89-1805. At ~~such the~~ hearing, the ~~said~~
 3 board shall also determine the amount and rate per acre
 4 necessary to be levied against each irrigable acre in the
 5 district to meet the interest on and principal of ~~said the~~
 6 authorized bond issue, and any tax levied for such purposes
 7 ~~shall-be is~~ a lien upon the entire tract of which ~~said the~~
 8 irrigable area forms a part. If any landowner in the
 9 district ~~shall-appear appears~~ before the board at ~~said that~~
 10 time and ~~pay pays~~ in cash the amount fixed against his ~~said~~
 11 land as its proportion of the amount found necessary for the
 12 purposes for which ~~said the~~ bonds were authorized and are to
 13 be issued, his land shall be excluded from the lien of the
 14 bond issue and the amount of bonds intended to be issued
 15 shall be reduced by the amount of such payment. Any person
 16 interested who ~~shall-fail fails~~ to appear before the board
 17 at ~~said the~~ meeting ~~shall may~~ not thereafter be permitted to
 18 contest the proceedings of ~~said the~~ board, or any part
 19 thereof, except upon special application to the court in the
 20 proceedings for the confirmation of ~~said the~~ bonds and a
 21 showing of reasonable excuse for failure to appear before
 22 ~~said the~~ board of commissioners.

23 (4) In case any such landowner makes objection to the
 24 proceedings of ~~said the~~ board in determining the irrigable
 25 area in his own or any other tract of land, or the amount or

1 rate per acre of the special tax and assessment to be levied
 2 against each irrigable acre in the district for the purposes
 3 of the proposed bond issue, and ~~said the~~ objection is
 4 overruled by the board, ~~such the~~ objection without further
 5 proceedings shall be regarded as appealed to the district
 6 court, and shall, with the other proceedings of ~~said the~~
 7 board at ~~said the~~ meeting, be heard at the proceedings to
 8 confirm ~~said the~~ bonds, as provided in section 89-1704, and
 9 when so confirmed, ~~said the~~ order overruling such objection
 10 and confirming the order of the board determining the
 11 irrigable area of each tract of land and apportioning the
 12 cost of the improvement thereto, shall become final,
 13 binding, and conclusive upon ~~said the~~ landowner and upon the
 14 district, unless appealed from as provided in ~~said--section~~
 15 89-1704 provided.

16 (5) ~~Provided,--however,--that--whenever~~ Whenever the
 17 irrigable area of the lands in any irrigation district ~~shall~~
 18 ~~have has~~ been determined and confirmed, no owner or holder
 19 of title or evidence of title to lands in ~~said the~~ district,
 20 during the period of ~~when~~ any bonds thereafter authorized
 21 ~~shall-be are~~ issued and outstanding, ~~shall may~~ have the
 22 taxable acreage of his ~~said~~ lands fixed or adjudicated in
 23 the manner provided by sections 89-1404 to through 89-1408,
 24 in such manner or to such extent as to reduce the acreage
 25 subject to the payment of ~~such the~~ bonds or interest

1 thereon, or in such manner as to affect the security of
 2 ~~such the~~ bonds or interest thereon."

3 Section 34. Section 89-1811, R.C.M. 1947, is amended
 4 to read as follows:

5 "89-1811. County treasurer as custodian of district
 6 funds. The county treasurer of the county ~~wherein where~~ the
 7 office of an irrigation district is located ~~shall-be is~~ the
 8 custodian of all funds belonging to the district, and he
 9 shall pay out such funds upon the order of the board of
 10 commissioners, except ~~as-to~~ payments on bonds and interest
 11 for which no order ~~shall-be is~~ necessary. ~~Where~~ If any
 12 portion of the funds belonging to a district ~~have has~~ been
 13 collected for the purpose of establishing a reserve fund,
 14 the county treasurer shall pay such portion to the district
 15 on order of the district's board of commissioners, who ~~shall~~
 16 ~~have--authority--to may~~ invest the same in state or federal
 17 bonds or in savings certificates of institutions insured by
 18 the federal deposit insurance corporation. Where moneys of
 19 a district in the United States contract fund established
 20 pursuant to ~~section--89-1809~~ 89-1801(3) are in excess of
 21 those needed to pay a district's next succeeding annual
 22 contract obligation or obligations to the United States,
 23 such excess, or any part thereof, may, upon order of the
 24 district's board of commissioners, and with the consent of
 25 the United States officer administering the contract for

1 which the contract fund has been established, be paid to the
2 district for use in meeting other obligations of the
3 district. Such orders of the board of commissioners shall be
4 signed by the president and secretary of the board, and
5 shall bear the official seal of the district."

6 Section 35. Section 89-1816, R.C.M. 1947, is amended
7 to read as follows:

8 "89-1816. Proceeds of sale. Whenever ~~pursuant to the~~
9 ~~provisions of the preceding section~~, any lot, tract, piece,
10 or parcel of land included within and forming a part of any
11 irrigation district created under the provisions of this
12 chapter, or included within any extension of such district,
13 ~~shall be~~ is sold by the treasurer of the county wherein
14 ~~where~~ such land is situated, in the manner provided by law
15 for the sale of lands for delinquent taxes for state and
16 county purposes, and taxes or assessments of ~~such the~~
17 irrigation district form all or a part of the taxes for
18 which such lands are sold, ~~it shall be the duty of~~ the
19 county treasurer making such sale or sales to ~~shall~~ place to
20 the credit of the proper funds of such irrigation district,
21 out of the proceeds of ~~such the~~ sale or sales, the total tax
22 or assessment of ~~such the~~ irrigation district, inclusive of
23 the interest and penalty thereon as provided for by the
24 general laws relating to delinquent taxes for state and
25 county purposes, and whenever any such lands are struck off

1 at such sale to the county wherein ~~where the same they~~ are
2 ~~situate~~ situated pursuant to the provisions of section
3 84-4124, the county treasurer of ~~such the~~ county must, upon
4 the issuance of the certificate of tax sale to ~~said the~~
5 county, issue to ~~said the~~ irrigation district, and in its
6 corporate name, a debenture certificate for the amount of
7 taxes and assessments due to ~~said the~~ irrigation district
8 from ~~said the~~ lands and premises so sold, inclusive of the
9 interest and penalty thereon, which certificate ~~shall be~~ is
10 evidence of and conclusive of the interest and claim of ~~said~~
11 ~~the~~ irrigation district in, to, against, and upon the lands
12 and premises so struck off to ~~said the~~ county at ~~such the~~
13 tax sale, and ~~from and~~ after the issuance of ~~said the~~
14 certificate, the sum named therein and the taxes and
15 assessments of ~~said the~~ district evidenced thereby shall
16 bear interest at the rate of ~~one-per-centum-per 1%~~ a month
17 from the date of ~~said the~~ certificate until redeemed in the
18 manner provided for by law for the redemption of the lands
19 sold for delinquent state and county taxes, or until paid
20 from the proceeds of the sale of the lands and premises
21 described therein, in ~~the~~ manner provided for by section
22 ~~2235 of these codes~~ law, and duplicates of such certificates
23 so issued to ~~said the~~ irrigation district shall be filed in
24 the office of the county clerk and county treasurer of ~~said~~
25 ~~the~~ county with the certificate of tax sale of ~~said the~~

lands and premises."

Section 36. Section 89-1819, R.C.M. 1947, is amended to read as follows:

"89-1819. Sale by county commissioners when land not redeemed. When the lands and premises so sold for taxes and upon and against which the certificates herein provided for have been issued for the taxes and assessments of such the irrigation district are not redeemed within the time provided for by section 84-4132, it shall be the duty of the board of county commissioners of said the county, within three 3 months thereafter, to shall cause said these lands and premises to be sold as provided for by section--2235--of these--codes law, and out of the proceeds of the sale, thereof the county treasurer of said the county shall pay to the holder or holders of such the certificates the sum or sums for which the same were issued, with interest as therein provided for to the date of said the sale of said the lands by the board of county commissioners, and no lands and premises so held by any county, and against which the certificates provided for by this chapter have been issued, shall may, upon such sale, be struck off or sold for a less sum than the amount of taxes and assessments of said the irrigation district represented by said the certificate, inclusive of the interest thereon, in addition to the state and county taxes, if any, against the same."

Section 37. Section 89-2003, R.C.M. 1947, is amended to read as follows:

"89-2003. Contents of petition. Said The petition of 89-2002 shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if such--there be any, together with the general description of the--same them, showing the amount of each description--of described indebtedness and the ownership, so far as known, of the same indebtedness. Said The petition shall also state the assets of said the district, including any irrigation system--if any systems, dams, reservoirs, canals, franchises, water rights, and other property; and in case any proposition has been made by the holders of said the indebtedness to settle the same indebtedness, said this proposition, together with any plan proposed to carry the same proposition into execution, shall be included in said the petition."

Section 38. Section 89-2109, R.C.M. 1947, is amended to read as follows:

"89-2109. Interpretation of act title. The object of this act--being to--secure--the irrigation of lands of the state--and thereby title is to promote the prosperity and welfare of the people--its provisions shall be liberally construed so as to effect the objects--and--purposes--herein set forth of Montana through the sound management of the state's water resources, and its provisions are to be given

1 a liberal interpretation."

2 Section 39. Section 89-2126, R.C.M. 1947, is amended
3 to read as follows:

4 "89-2126. ~~Court-to-approve-contracts~~ United States
5 contracts -- court approval required. The board of
6 commissioners of any irrigation district, before the making
7 of any contract with the United States hereunder, shall
8 commence a special proceeding in the district court of the
9 state, ~~in--and~~ by which the proceedings of the board and of
10 ~~said the~~ district leading up to the making of any such
11 contract and the validity of the terms thereof shall be
12 judicially examined, and approved and affirmed, or
13 disapproved ~~or~~ and disaffirmed."

14 Section 40. Section 89-2203, R.C.M. 1947, is amended
15 to read as follows:

16 "89-2203. Amendment and circulation of
17 ~~petition--circulation -- court~~ consideration by court. No
18 petition having as many signers as are required by ~~this~~
19 ~~section 89-2201 shall~~ may be declared void, but the court
20 may at any time permit the petition to be amended in form
21 and substance to conform to the facts, if the facts justify
22 the organization of a drainage district. Several similar
23 petitions for the organization of the same district may be
24 circulated, and, when filed, ~~together~~ shall ~~together~~ be
25 regarded as one petition having as many signers as there are

1 separate adult signers on the several filed petitions ~~filed~~
2 who own lands within ~~said the~~ proposed drainage district.
3 All petitions for the organization of ~~said the~~ district
4 filed prior to the hearing on ~~said the~~ petition shall be
5 considered by the court, the same as if filed with the first
6 petitions placed on file, and the signatures thereon
7 ~~contained~~ shall be counted in determining whether sufficient
8 landowners have signed ~~said the~~ petition."

9 Section 41. Section 89-2302, R.C.M. 1947, is amended
10 to read as follows:

11 "89-2302. Election of commissioners -- terms regular
12 term of office. ~~(1)~~ The regular election of commissioners
13 shall be held annually on the first Tuesday in April of each
14 year; the term of office of commissioners shall commence on
15 the first Tuesday in May following their election. At the
16 first regular election following the organization of a
17 district, and in districts heretofore organized and in
18 existence on ~~the date when this act takes effect~~ March 1,
19 1921, and which, on petition, ~~has~~ have been divided into
20 divisions, ~~as hereinbefore provided,~~ at the first regular
21 election following the date of the order making such
22 division, there shall be elected three commissioners, one
23 commissioner being elected from each division of which he
24 must be an actual landowner ~~and resident of the county or~~
25 ~~counties;~~ one of ~~such the~~ commissioners, to be determined by

1 lot, shall hold office until the first Tuesday in May in the
 2 year following his election, another of such the
 3 commissioners, to be determined by lot, shall hold office
 4 until the first Tuesday in May in the second year following
 5 his election, and the third of such the commissioners shall
 6 hold office until the first Tuesday in May in the third year
 7 following his election; thereafter one commissioner shall be
 8 elected each year, who shall hold office for a term of three
 9 3 years and until his successor is elected and qualified;
 10 provided, that the person elected as a commissioner in each
 11 year to succeed the commissioner whose term is then expiring
 12 must be elected as a commissioner from the same division as
 13 the commissioner whom he is to succeed.

14 (2) Each commissioner must be a resident of a county
 15 where a portion of the district lands are situated."

16 Section 42. Section 89-2348, R.C.M. 1947, is amended
 17 to read as follows:

18 "89-2348. ~~Assessments--for--construction~~ Construction
 19 assessments -- annual installment. At the time of the
 20 confirmation of such the assessments as provided in 89-2342,
 21 ~~it shall be--competent--for~~ the court to may order the
 22 assessment for construction of new work, to be paid in not
 23 more than ~~fifteen--(15)~~ annual installments, of such amounts
 24 and at such times as will be convenient for the
 25 accomplishment of the proposed work, or for the payment of

1 the principal and interest of such notes or bonds of ~~said~~
 2 ~~the~~ district, as the court ~~shall--grant~~ grants authority to
 3 issuer for the construction of new work. The court shall
 4 also, by such order, fix a date on which the first
 5 installment of the assessments for construction shall become
 6 due, not more than ~~five--(5)~~ years after the date of the
 7 order, and each of ~~said the~~ installments shall draw interest
 8 at the rate fixed by the court in accordance with law from
 9 the date of ~~said the~~ order."

10 Section 43. Section 89-2411, R.C.M. 1947, is amended
 11 to read as follows:

12 "~~89-2411. Omissions--how--corrected~~ Correction of
 13 omissions. Omission to assess benefits, ~~or to assess for~~
 14 construction, ~~or to make additional assessments, or to make~~
 15 assessment for repairs, ~~or to award damages to any one or~~
 16 more tracts of land or easements in a drainage district, ~~or~~
 17 to assess benefits, ~~or--to assess for construction, or--to~~
 18 assess for repairs, ~~or to make additional assessments~~
 19 against any corporation which should have been assessed,
 20 ~~shall--neither does not~~ affect the jurisdiction of the court
 21 to confirm the report ~~nor or~~ to render the benefits
 22 assessed, ~~or the assessments for construction, or additional~~
 23 assessments, or assessments for repairs against other lands,
 24 or assessments against any corporation voidable; but the
 25 commissioners of ~~said the~~ drainage district shall

1 thereafter, as soon as they discover the omission, or as
 2 soon as they have notice thereof, either agree with the
 3 omitted parties upon the proper assessments and award the
 4 damages or assess such benefits, make such assessments for
 5 construction, and make such additional assessments against
 6 the omitted lands and corporations, and award such damages
 7 as ~~shall be~~ are just, and report the facts, together with
 8 such assessments and awards, to the court."

9 Section 44. Section 89-2701, R.C.M. 1947, is amended
 10 to read as follows:

11 "89-2701. Continuation of existing districts. All
 12 drain districts of the state of Montana, organized prior to
 13 ~~the enactment of sections 89-2201 to 89-2502 and sections~~
 14 ~~89-2601 to 89-2620, inclusive~~ March 1, 1921, and continued
 15 in existence pursuant to section 89-2620 100, Chapter 129,
 16 Laws 1921, shall continue their existence as drain districts
 17 under and pursuant to all of the provisions of ~~said sections~~
 18 drainage district laws, and the commissioners of such drain
 19 districts shall have all the power and authority conferred
 20 by ~~said sections~~ the drainage district laws upon the
 21 commissioners of drainage districts ~~organized under such~~
 22 sections."

23 Section 45. Section 89-2711, R.C.M. 1947, is amended
 24 to read as follows:

25 "89-2711. Rules of practice applicable. The same rules

1 relative to the filing of ~~demurrers~~, answers and replies
 2 ~~which now exist~~ relative to other causes of action affecting
 3 the title to real property shall apply in actions to exclude
 4 lands from a drainage district, and all issues arising may
 5 be tried by the court without a jury."

6 Section 46. Section 89-2810, R.C.M. 1947, is amended
 7 to read as follows:

8 "89-2810. Assessments against annexed lands. ~~Said the~~
 9 commissioners shall, after the time for appeal is past,
 10 assess against each parcel, tract, and easement of ~~and said~~
 11 ~~the~~ annexed lands reasonable and just benefits, and shall
 12 assess against ~~said these~~ lands for construction and repairs
 13 such sums as ~~shall be~~ are just. If lands similarly situated
 14 and benefited are found in ~~said the~~ district, the annexed
 15 lands shall be assessed a like sum of benefits and damages
 16 as ~~said the similar~~ lands in the ~~said~~ district to which they
 17 are sought to be annexed, and a sum for construction of ~~said~~
 18 ~~the work~~, which shall be equal to all sums assessed, for the
 19 complete construction of the drainage system in the district
 20 to which they are sought to be annexed against lands having
 21 the same assessment of benefits in ~~said the~~ district."

22 Section 47. Section 89-2926, R.C.M. 1947, is amended
 23 to read as follows:

24 "89-2926. Waste and contamination of ~~ground-water~~
 25 groundwater prohibited--~~exception--duties of department.~~ (1)

1 No ground--waters groundwater shall ~~may~~ be wasted without
 2 beneficial use. The department shall require all wells
 3 producing waters which contaminate other waters to be
 4 plugged or capped. It shall also require all flowing wells
 5 to be so capped or equipped with valves that the flow of
 6 water can be stopped when the water is not being put to
 7 beneficial use. Likewise, both flowing and nonflowing wells
 8 shall be so constructed and maintained as to prevent the
 9 waste, contamination, or pollution of ground--waters
 10 groundwater through leaky casings, pipes, fittings, valves,
 11 or pumps either above or below the land surface, provided,
 12 however, in the following cases the withdrawal or use of
 13 ground--water groundwater shall not be construed as waste
 14 under this act:

15 {1}(a) the withdrawal of reasonable quantities of
 16 ground---water groundwater in connection with the
 17 construction, development, testing, or repair of a well or
 18 other means of withdrawal of ground-waters groundwater;

19 {2}(b) the inadvertent loss of ground--water
 20 groundwater owing to breakage of a pump, valve, pipe, or
 21 fitting, if reasonable diligence is shown by the person in
 22 effecting the necessary repair;

23 {3}(c) the disposal of ground---water groundwater
 24 without further beneficial use that must be withdrawn for
 25 the sole purpose of improving or preserving the utility of

1 land by draining the same, or that ~~must be~~ removed from a
 2 mine to permit mining operations or to preserve the mine in
 3 good condition;

4 {4}(d) the disposal of ground-water groundwater used
 5 in connection with ~~production--for--reduction~~ producing,
 6 reducing, smelting, and milling metallic ores and industrial
 7 minerals, or that displaced from an aquifer by the storage
 8 of other mineral resources.

9 {2} The department at any time may hold a hearing on
 10 its own motion, or upon petition signed by a representative
 11 body of users of ground-water groundwater in any area or
 12 subarea, to determine whether the water supply within such
 13 area or subarea is used in compliance with this act."

14 Section 48. Section 89-2929, R.C.M. 1947, is amended
 15 to read as follows:

16 "89-2929. Reports ~~to--be--in--addition--to--other--reports~~
 17 ~~required by water well drillers.~~ The forms, reports, and
 18 information required to be fitted-[filed] by this act shall
 19 be ~~are~~ in addition to all other reports and information
 20 which the drillers of water wells in the state of ~~Montana~~
 21 are required by law to file with agencies of the state of
 22 ~~Montana.~~"

23 Section 49. Section 89-3425, R.C.M. 1947, is amended
 24 to read as follows:

25 "89-3425. Challenging voters--~~oath--penalty--for--false~~

1 subscription. An elector may challenge any person who claims
2 the right to vote. Before voting, any person challenged must
3 take and sign the following oath or affirmation administered
4 by an election judge:

5 "I(name) solemnly swear (or affirm) that I am an
6 elector of the district and have not voted today." False
7 subscription to the oath or affirmation is perjury and
8 punishable as such is false swearing and is punishable as
9 provided in 94-7-203."

10 Section 50. Section 89-3449, R.C.M. 1947, is amended
11 to read as follows:

12 "89-3449. Other agencies not affected. The provisions
13 of this act ~~shall not be construed to~~ do not in any manner
14 abrogate or limit in any manner the rights, powers, duties,
15 and functions of the department, ~~conservation--commission~~
16 conservation districts, department of health and
17 environmental sciences, or the fish and game commission, but
18 ~~shall be held to be~~ are supplementary thereto and in aid
19 thereof."

20 Section 51. Severability. If a part of this act is
21 invalid, all valid parts that are severable from the invalid
22 part remain in effect. If a part of this act is invalid in
23 one or more of its applications, the part remains in effect
24 in all valid applications that are severable from the
25 invalid applications.

1 Section 52. Repealer. Sections 89-128, 89-1901, and
2 89-2818, R.C.M. 1947, are repealed.

-End-

SENATE BILL NO. 26

INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS 89-128, 89-1901, AND 89-2818, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-105, R.C.M. 1947, is amended to read as follows:

~~"89-105. Power of department to construct works and to act beyond jurisdiction Construction of works by department.~~

(1) Subject to the approval of the board, the department may construct works, the cost of the construction to be paid wholly by means of or with the proceeds of revenue bonds hereinafter authorized or of a grant to aid in financing the construction from the United States or any instrumentality or agency thereof and of other funds provided ~~under the authority of this act for the construction.~~ Before constructing a project, the department shall estimate the cost of the project, the cost of maintaining, repairing, and operating it, and the revenues to be derived therefrom, and a project may not be constructed unless, according to the estimates, the revenues to be derived will be sufficient to pay the cost of maintaining, repairing, and operating it.

and to pay the principal and interest of revenue bonds which may be issued for the cost of the project; however, in connection with the issuance of revenue bonds, the failure of the department to make the estimates required by this section or to make them in proper form does not affect the validity or enforceability of those bonds or of the trust indenture, resolution, or other security therefor.

(2) ~~However, should~~ Should the bid of the lowest responsible bidder on any capital improvement associated with public works ~~as defined in this section~~ exceed the department estimates of the cost of the improvements by more than ~~five per cent (5%)~~, the department shall obtain approval from the water user association, ~~whenever an association is involved,~~ before the bid is accepted; however, capital improvements of an emergency nature necessary to protect life or property or to supply immediate needs for water do not require such approval.

(3) ~~The~~ A purpose of this act is to meet, so far as possible, a ~~state-wide~~ statewide need for the conservation and use of water, through the construction and operation of projects designed for those purposes. ~~The department may make investigations as are necessary to plan and carry out a comprehensive state-wide program of water conservation.~~ The projects to be finally constructed shall qualify as parts of the ~~state-wide~~ statewide program and shall be approved by

the board upon the showing of their prospective ability to meet, through the sale of water or other services, the cost of operation, maintenance, and repair and the amortization of the cost of the construction; ~~however, the~~ The failure of the board to determine the prospective ability of a project does not affect the validity or enforceability of the bonds or of the trust indenture, resolution, or other security therefor.

(4) The department may exercise any of its powers:

(a) ~~in in~~ an adjoining state, unless the exercise of that power is not permitted under the laws of that state or of the United States; i

(b) ~~in in~~ a national forest or public domain of the United States adjoining, or located in, the state of Montana, unless the exercise of those powers is not permitted under the laws of the United States; i

(c) ~~in in~~ an adjoining country, unless the exercise of those powers is not permitted under the laws of that country or of the United States or under the treaties between that country and the United States. "

Section 2. Section 89-115, R.C.M. 1947, is amended to read as follows:

~~"89-115. Water funds--rates--sale of water--appeals to board--lease and sale of water rights--and property Management of property -- water contracts. (1) Subject to~~

this act and section 89-103.2, the department may fix and establish the prices, rates, and charges at which the resources and facilities made available under this act may be sold and disposed of; enter into contracts and agreements, and do those things which in its judgment are necessary, convenient, or expedient for the accomplishment of the purposes and objects of this act, under such general regulations rules and upon such terms, limitations, and conditions as it prescribes; ~~the~~ The department shall enter into the contracts and fix and establish the prices, rates, and charges so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance of the works authorized by this act, together with necessary repairs thereto, and which will provide at all times sufficient funds to meet and pay the principal and interest of all bonds or loans as they severally become due and payable; ~~this~~ This act does not authorize any change, alteration, or revision of those rates, prices, or charges as established by any contract entered into under this act except as provided by the contract.

(2) An incorporated water users' association that is sustaining and responsible for the operations of a works is solely liable for any court action which may be brought against it or the state of Montana for any injury or damages occurring on the works caused by a failure to maintain safe

1 working and operating conditions.

2 (3) A contract made by the department for the sale of
3 water, use of water, water storage₁ or other service₁ or for
4 the sale of any property or facilities₁ shall provide that₁
5 in the event of a failure or default in the payment of
6 moneys specified in the contract to be paid to the
7 department, the department may, upon notice as is prescribed
8 in the contract, terminate the contract and all obligations
9 thereunder. The act of the department in ceasing on default
10 to furnish or deliver water, use of water, water storage₁ or
11 other service under the contract does not deprive the
12 department of₁ or limit any remedy provided by the contract
13 or by law for the recovery of moneys due or which may become
14 due under the contract.

15 (4) (a) A person aggrieved by a decision of the
16 department to terminate any contract under subsection (3)
17 may appeal to the board and be heard thereon by filing
18 written notice of the appeal with the department within ten
19 ~~(10)~~ days after receiving notice of termination of the
20 contract from the department. The termination of the
21 contract shall be stayed if an appeal is taken.

22 (b) If a dispute arises between the department and
23 another party regarding amounts owing or the terms and
24 conditions under a water marketing or water purchase
25 contract₁ or under a contract for the construction or repair

1 of works, that party may appeal to the board for a hearing
2 thereon and a resolution of the dispute by filing written
3 notice of the appeal with the department within ~~thirty (30)~~
4 days after the final decision of the department regarding
5 the dispute.

6 (5) Subject to the approval of the board under section
7 89-103.2, the department may sell, transfer to water user
8 associations, abandon₁ or otherwise dispose of any ~~rights-of-~~
9 ~~way~~ rights-of-way, easements₁ or property when it determines
10 that they are no longer needed for the purposes of this act₁
11 or lease or rent the same or otherwise take and receive the
12 income or profit and revenue therefrom. A determination
13 shall be made by the department as to the market value of
14 ~~rights-of-way~~ rights-of-way, easements₁ or property to be
15 sold, transferred, abandoned₁ or otherwise disposed of. ~~All~~
16 ~~income or profit and revenue of the works and all moneys~~
17 ~~received from the sale or disposal of water, use of water,~~
18 ~~water storage₁ or other service₁ and from the operation~~
19 ~~lease, sale or other disposition of the works, property and~~
20 ~~facilities acquired under this act shall be deposited to~~
21 ~~the state general fund."~~

22 Section 3. Section 89-401, R.C.M. 1947, is amended to
23 read as follows:

24 "89-401. Disposition of moneys collected. (1) For the
25 purpose of carrying out the provisions of the ~~Water~~

~~Conservation Act, acts amendatory thereto and supplementary thereof, chapter 1 of Title 89~~ and such other water resource authority, powers, and duties as are conferred upon the department of natural resources and conservation by law, the following moneys shall be deposited in the earmarked revenue fund for the use of the department:

(a) all sums of money donated or contributed by the federal government or any department or agencies thereof;

(b) all gifts, donations, bequests, and devises made to the state therefor and proceeds of the sale thereof; and the proceeds of the sale or redemption of and the interest earned by the securities purchased or acquired ~~by the moneys thereof with money received under this subsection;~~

(c) all reimbursements for money advanced for the payment of the assessments upon state, ~~school-granted~~ school-granted, and other public lands for the improvement thereof as provided by law;

(d) all reimbursements for money advanced for the investigation and survey of reclamation, electrification, and rehabilitation systems or projects proposed to be financed in whole or in part by the reclamation of lands and dyking, drainage, and dyking and drainage dams for conservation of water to be used in reclamation of land or stock reservoirs or for the construction, maintenance, and operation of plants or projects for the manufacture or

distribution of electric current; ~~revenues arising from projects constructed or owned by the department in excess of costs of operation and maintenance, and repayment of principal and interest of any moneys borrowed for the construction of the projects, all sums payable as rentals due for water use, maintenance or operation upon any project owned by the state or for which such rentals are due and payable under any contract or agreement made by any person, association or corporation with the department, all sums of money received by the department for the use of electric current, in excess of the maintenance and operation upon any electrification system or project;~~

(e) all reimbursements for costs of surveys and investigations for moneys advanced to counties, cities or towns or their proportion of the cost thereof, or from any other sources.

(2) The following shall be deposited in the state general fund:

(a) all income or profit and revenue of the works and all money received from the sale or disposal of water, use of water, water storage, or other service and from the operation, lease, sale, or other disposition of the works, property, and facilities acquired under chapter 1 of Title 89; and

(b) all sums received by the department for the use of

1 electricity in excess of the maintenance and operation of
 2 the electrification system or project."

3 Section 4. Section 89-125, R.C.M. 1947, is amended to
 4 read as follows:

5 "~~89-125. Powers of department concerning waters and~~
 6 ~~appropriations thereof~~ Department powers over state waters.

7 (1) The authority of the department conferred by this act
 8 chapter extends and applies to rights to the natural flow of
 9 the waters of this state which it may acquire, with the
 10 approval of the board, by condemnation, purchase, exchange,
 11 appropriation, or agreement.

12 (2) For the purpose of regulating the diversion of
 13 those waters, the department may enter upon the means and
 14 place of use of all appropriators for making surveys of
 15 respective rights and seasonal needs.

16 (3) The department may take into consideration the
 17 decrees of the courts of this state having jurisdiction,
 18 which purport to adjudicate the waters of a stream or its
 19 tributaries, and a fair, reasonable, and equitable
 20 reconciliation shall be made between the claimants asserting
 21 rights under different decrees and between decreed rights
 22 and asserted rights of appropriation not adjudicated by any
 23 court.

24 (4) The department, at its discretion, may hold
 25 hearings relating to the rights of respective claimants

1 after first giving such notice as it deems considers
 2 appropriate and make findings of the date and quantity of
 3 appropriation and use of all claimants which the department
 4 will recognize and observe in diverting the waters which it
 5 owns. The department may police and distribute to the owner
 6 of the recognized appropriation the waters due him upon
 7 request and under terms agreed upon.

8 (5) The department, when engaged in controlling and
 9 dividing the natural flow of a stream under the authority
 10 granted by this act chapter, is exercising a police power of
 11 the state, and water commissioners appointed by any court
 12 may not deprive the department of any of the waters owned or
 13 administered under agreement with respective owners, but the
 14 owner of a prior right contending that the department is not
 15 recognizing and respecting the appropriation may resort to a
 16 court for the purpose of determining whether or not the
 17 rights of the claimant have been invaded, and the department
 18 shall observe the terms of the final decree.

19 (6) When the department impounds or acquires the right
 20 of appropriation of the waters of a stream, it may divert or
 21 authorize the diversion at any point on the stream or any
 22 portion thereof, when it is done without injury to a prior
 23 appropriator.

24 ~~{7}--This act does not repeat or amend an existing~~
 25 ~~statute pertaining to the appropriation or use of water~~

1 ~~except as expressly provided in this act and this act does~~
 2 ~~not interfere with vested rights to the use of water~~
 3 ~~(8) In addition to the powers conferred on the~~
 4 ~~department elsewhere in this chapter~~

5 (7) the ~~the~~ department may acquire water by purchase
 6 option or agreement with the federal government from the
 7 Fort Peck Reservoir for the purpose of sale, rent, or
 8 distribution for industrial use. In such cases, the
 9 department is not required to construct any diversion or
 10 appropriation facilities or works, and it may sell, rent, or
 11 distribute such water at such rates and under such terms and
 12 conditions as it considers appropriate."

13 Section 5. Section 89-319, R.C.M. 1947, is amended to
 14 read as follows:

15 "89-319. Separate permit for each operation. (1)
 16 Separate permits shall be issued for each operation.

17 (2) "Operation" means the performance of weather
 18 modification and control activities entered into for the
 19 purpose of producing or attempting to produce a certain
 20 modifying effect within one ~~(1)~~ geographical area over one
 21 continuing time interval not exceeding one ~~(1)~~ year."

22 Section 6. Section 89-823, R.C.M. 1947, is amended to
 23 read as follows:

24 "89-823. Owners of water to sell surplus. Any person
 25 having the right to use, sell, or dispose of water, and

1 engage in using, selling, or disposing of the same, who has
 2 a surplus of water not used or sold, or any person having a
 3 surplus of water, and the right to sell and dispose of the
 4 same, is required, upon the payment or tender to the person
 5 entitled thereto of an amount equal to the usual and
 6 customary rates per inch ~~INCH OR~~ INCH OR cubic foot of water
 7 per second, to convey and deliver to the person ~~such the~~
 8 surplus of unsold water, or so much thereof for which ~~said~~
 9 ~~the~~ payment or tender ~~shall have been~~ has been made, and
 10 shall continue so to convey and deliver the same weekly so
 11 long as ~~said the~~ surplus of unused or unsold water exists
 12 and ~~said the~~ payment or tender be is made as aforesaid."

13 Section 7. Section 89-867, R.C.M. 1947, is amended to
 14 read as follows:

15 "89-867. Definitions. Unless the context requires
 16 otherwise, in this chapter the following definitions apply:

17 (1) "Water" means all water of the state, surface and
 18 subsurface, regardless of its character or manner of
 19 occurrence, including geothermal water.

20 (2) "Beneficial use" means a use of water for the
 21 benefit of the appropriator, other persons, or the public,
 22 including but not limited to, agricultural (including stock
 23 water), domestic, fish and wildlife, industrial, irrigation,
 24 mining, municipal power, and recreational uses, ~~provided~~
 25 ~~however, that a~~ use of water for slurry to export coal

1 from Montana is not a beneficial use. Slurry is a mixture
2 of water and insoluble matter.

3 (3) "Appropriate" means to divert, impound, or
4 withdraw (including by stock for stock water) a quantity of
5 water, or 1 in the case of a public agency, 2 to reserve water
6 in accordance with ~~section~~ 89-890.

7 (4) "Existing right" means a right to the use of water
8 which would be protected under the law as it existed prior
9 to July 1, 1973.

10 (5) "Groundwater" means any water beneath the land
11 surface or beneath the bed of a stream, lake, reservoir, or
12 other body of surface water, and which is not a part of that
13 surface water.

14 (6) "Well" means any artificial opening or excavation
15 in the ground, however made, by which groundwater is sought
16 or can be obtained or through which it flows under natural
17 pressures or is artificially withdrawn.

18 (7) "Permit" means the permit to appropriate issued by
19 the department under ~~sections~~ 89-880 through 89-887.

20 (8) "Certificate" means the certificate of water right
21 issued by the department under ~~sections~~ 89-879, 89-880(5),
22 and 89-888.

23 (9) "Declaration" means the declaration of an existing
24 right filed with the department under ~~section~~ 89-872.

25 (10) "Waste" means the unreasonable loss of water

1 through the design or negligent operation of an
2 appropriation or water distribution facility, or the
3 application of water to anything but a beneficial use.

4 (11) "Political" subdivision~~2~~ means any county,
5 incorporated city or town, public corporation~~2~~ or district
6 created pursuant to state law, or other public body of the
7 state empowered to appropriate water, but not a private
8 corporation, association, or group.

9 (12) "Person" means an individual, association,
10 partnership, corporation, state agency, political
11 subdivision, ~~and or~~ the United States or any agency thereof.

12 (13) "Department" means the department of natural
13 resources and conservation provided for in Title 82A,
14 chapter 15.

15 (14) "Board" means the board of natural resources and
16 conservation provided for in ~~section~~ 82A-1509.

17 ~~{15}-"Act"-means-the-Montana--Water--Use--Act--and--any~~
18 ~~subsequent-amendments-or-additions-thereto"~~

19 Section 8. Section 89-2911, R.C.M. 1947, is amended to
20 read as follows:

21 "89-2911. Definitions. Unless the context requires
22 otherwise, in this chapter the following definitions apply:

23 ~~{a)}~~ (1) "Ground--water Groundwater" means any fresh
24 water beneath the land surface or beneath the bed of a
25 stream, lake, reservoir~~2~~ or other body of surface water, and

which is not a part of that surface water. Fresh water shall be deemed considered to be water fit for domestic, livestock, or agricultural use. The department, after notice and hearing, may fix definite standards for determining fresh water in any controlled ~~ground--water~~ groundwater area or subarea of the state.

~~(b)(2)~~ "Aquifer" means any underground geological structure or formation which is capable of yielding water or is capable of recharge.

~~(c)(3)~~ "Well" means any artificial opening or excavation in the ground, however made, by which ground water groundwater is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

~~(d)(4)~~ "Beneficial use" means a use of water for the benefit of the appropriator, other persons or the public, including, but not limited to, agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses. A use of water for slurry to export coal from Montana is not a beneficial use. Slurry is a mixture of water and insoluble matter.

~~(e)(5)~~ "Person" means an individual, association, partnership, corporation, state agency, political subdivision, and or the United States or any agency thereof.

~~(f)(6)~~ "Department" means the department of natural resources and conservation provided for in Title 82A, chapter 15.

~~(g)(7)~~ "~~Ground--water~~ Groundwater area" means an area which, as nearly as known facts permit, may be designated so as to ~~inclose~~ enclose a single and distinct body of ground water groundwater, which shall be described horizontally by surface description in all cases and which may be limited vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of administration, large ~~ground--water~~ groundwater areas may be divided into convenient administrative units "known as "subareas"."

~~(h)(8)~~ "Board" means the board of natural resources and conservation provided for in ~~section~~ 82A-1509.

(9) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water, but not a private corporation, association, or group."

Section 9. Section 89-899, R.C.M. 1947, is amended to read as follows:

"89-899. Legal assistance. (1) When requested by the department, the attorney general and the county attorneys within their respective counties shall perform legal

services and conduct legal proceedings necessary to carry out the purposes of this act ~~chapter~~. The department may also employ legal counsel to enforce this act ~~chapter~~ and to conduct proceedings under it.

(2) If an appropriator who is a citizen of Montana becomes involved in a controversy to which any agency of the federal government or another state is a party, the department may in its discretion intervene as a party or provide necessary legal assistance to the citizen of Montana."

Section 10. Section 89-2930, R.C.M. 1947, is amended to read as follows:

"89-2930. Duty of county attorneys and attorney general. The county attorneys and the attorney general of the state shall perform such legal services and bring such legal proceedings in carrying out the purpose of this act ~~chapter~~ within their respective counties as the department ~~shall may request. The department may also employ legal counsel to enforce this chapter and to conduct proceedings under it.~~"

Section 11. Section 89-907, R.C.M. 1947, is amended to read as follows:

"89-907. Filing written statement with department.

(1) Any person claiming an appropriative right to the use of any water of any interstate tributary which right was

acquired after January 1, 1950, shall, within ~~sixty 60~~ days after the ~~approval of this act~~ February 25, 1953, or before he diverts any water, file with the department at its office in Helena, Montana, a written statement containing the following information:

(a) ~~The the~~ name of the claimant and his address;

(b) ~~Date date~~ of appropriation or the date when the water was first applied to a beneficial use;

(c) ~~The the~~ quantity of water claimed;

(d) ~~The the~~ name of the stream, river, or other source of water from which the diversion is made, if it has a name, and if it does not, such a description ~~as will identify~~ identifying the same;

(e) ~~The the~~ purpose for which the water is claimed and the place of intended use;

(f) ~~The the~~ means of diversion;

(g) ~~Whether whether~~ or not a weir or other device for measuring the water intended to be diverted has been installed in his ditch or other means of diversion;

(h) ~~If if~~ a notice of appropriation was filed with the county clerk and recorder, ~~as provided by section 89-810,~~ the name of the county where it was filed;

(i) ~~Whether whether~~ the appropriation was made from an adjudicated or nonadjudicated stream, river, or other source of water.

(2) The written statement shall be verified by the affidavit of the claimant or someone in his behalf, which affidavit must state that the matters and facts contained in the written statement are true."

Section 12. Section 89-911, R.C.M. 1947, is amended to read as follows:

"89-911. Domestic and stock uses ~~not within the act exempted~~. Any appropriation of water from any interstate tributary of the Yellowstone River made for domestic or stock water uses ~~shall will~~ not come within the provisions of this act ~~provided, that chapter whenever~~ the capacity of any a reservoir for stock water ~~shall does~~ not exceed twenty 20 acre-feet."

Section 13. Section 89-1015, R.C.M. 1947, is amended to read as follows:

"89-1015. Complaint by dissatisfied user ~~procedure~~ on. Any A person owning or using any of the waters of ~~such the~~ stream or ditch or extension of ~~the~~ ditch, who is dissatisfied with the method of distribution of the waters of ~~such the~~ stream or ditch by ~~such the~~ water commissioner or water commissioners, and who claims to be entitled to more water than he is receiving, or ~~is entitled~~ to a right prior to that allowed him by ~~such the~~ water commissioner or water commissioners, may file his written complaint, duly verified, setting forth the facts of ~~such the~~ claim.

Thereupon the judge shall fix a time for the hearing of such petition, and shall direct that such notice be given to the parties interested in ~~such the~~ hearing as the judge may deem ~~considers~~ necessary. At the time fixed for ~~such the~~ hearing, the judge must hear and examine the complainant and ~~such other parties~~ as may appear to support or resist such claim, and ~~also~~ examine ~~such the~~ water commissioner or water commissioners and witnesses as to the charges contained in ~~said the~~ complaint. Upon the determination of the hearing, the judge shall make such findings and order as he may deem ~~considers~~ just and proper ~~in the premises~~. If it ~~shall~~ appear ~~appears~~ to the judge that the water commissioner or water commissioners have not properly distributed the water according to the provisions of the decree, then the judge shall give the proper instructions for such distribution. The judge may remove ~~such any~~ water commissioner or ~~water commissioners~~ and appoint some other person ~~or persons~~ in his ~~or their~~ stead, if he deems ~~considers~~ that the interests of the parties in the waters mentioned in ~~such the~~ decree will be best subserved thereby, and if it ~~shall appear~~ appears to the judge that the ~~said~~ water commissioner or ~~water commissioners have~~ ~~has~~ willfully failed to perform their ~~his~~ duties, they ~~he~~ may be proceeded against for contempt of court, as provided in contempt cases. The judge shall make such order as to the payment of costs of ~~such the~~

1 hearing as ~~may appear~~ appears to him to be just and proper."

2 Section 14. Section 89-1202, R.C.M. 1947, is amended
3 to read as follows:

4 "89-1202. Petition for organization. (1) For the
5 purpose of establishing and organizing an irrigation
6 district hereunder, a petition signed by the required number
7 of holders of title or evidence of title to lands within
8 ~~such the~~ proposed district mentioned in the preceding
9 section shall be filed with the clerk of the district court
10 of the county in which ~~the lands of the proposed district~~
11 ~~or the greater portion thereof are situated; provided, if~~
12 ~~there are three or more counties embraced in the proposed~~
13 ~~district, and no one county embraces the greater portion of~~
14 ~~said lands, then and in that event said petition shall be~~
15 ~~filed in the county which embraces a greater portion of said~~
16 ~~lands than any one of the other counties embraced in said~~
17 ~~proposed district~~ the greatest portion of the lands of the
18 proposed district are located. Such the petition shall set
19 forth:

20 1~~(a)~~ (a) The ~~the~~ name suggested for the proposed
21 district;

22 2~~(b)~~ (b) A general description of the lands to be
23 included in the proposed district;

24 3~~(c)~~ (c) The ~~the~~ names of the holders of title or
25 evidence of title to the lands in the proposed district,

1 ascertained in the manner mentioned in the preceding
2 section~~1~~, and if ~~any such a~~ holder is a nonresident of the
3 county or counties in which the proposed district lies, the
4 post-office address of ~~such the~~ nonresident owner, if known;

5 4~~(d)~~ (d) ~~Generally generally,~~ the source from which the
6 lands in the proposed district are to be irrigated, and the
7 character of the works, water rights, canals, and other
8 property proposed to be acquired or constructed for
9 irrigation purposes in the proposed district;

10 5~~(e)~~ (e) A prayer that the lands embraced within the
11 proposed district be organized as an irrigation district
12 according to the applicable provisions of ~~this act~~ chapters
13 12 through 21 of Title 89.

14 (2) The petition shall be accompanied by:

15 1~~(a)~~ (a) a map or plat of the proposed district; and

16 2~~(b)~~ (b) a good and sufficient bond or undertaking, to
17 be approved by the district court or judge thereof of the
18 county in which the petition is required to be filed under
19 the provisions of ~~this act~~ subsection (1), to pay all costs
20 in and about the proceedings preliminary to the organization
21 of the district in the event that ~~said the~~ organization
22 ~~shall is~~ not be effected.

23 (3) Mere error or omission in the description of any
24 lands or in the names of any of the holders of title or
25 evidence of title to lands ~~shall not operate to~~ does not

1 render invalid any proceedings hereunder, or to deprive the
 2 district court of jurisdiction of the subject matter,
 3 provided,--such Such misdescribed lands or misnamed persons
 4 shall may not be included in said the district."

5 Section 15. Section 89-1204, R.C.M. 1947, is amended
 6 to read as follows:

7 "89-1204. Hearing on petition and appointment of
 8 commissioners. (1) At the time specified in the notice
 9 mentioned in the preceding section, the district court in
 10 which the petition oforeseid is filed shall hear the
 11 petition, but may adjourn such hearing from time to time,
 12 not exceeding three 2 weeks in all, and may continue the
 13 hearing for want of sufficient notice or other good cause.
 14 The court, upon application of the petitioners or any
 15 interested person or persons interested, shall permit the
 16 petition to be amended, and may order further or additional
 17 notice to be given. Upon such hearing all interested persons
 18 interested, whose lands or rights may be damaged or
 19 benefited by the organization of the district or by the
 20 irrigation works or improvements therein or to be acquired
 21 or constructed ~~as hereinafter set forth~~, may appear and
 22 contest the necessity or utility of the proposed district,
 23 or any part thereof, and the contestants and petitioners may
 24 offer any competent evidence in regard thereto.

25 (2) ~~It shall be the duty of the~~ The court to shall

1 hear and determine whether the requirements of ~~sections~~
 2 89-1201, 89-1202, and 89-1203 have been complied with, and
 3 for that purpose shall hear all competent and relevant
 4 testimony that may be offered.

5 (3) (a) The court may make such changes in the
 6 proposed district as may be deemed considered advisable, or
 7 as fact, right, and justice may require, ~~but shall not~~
 8 ~~exclude from such proposed district any land~~ Land which is
 9 susceptible of irrigation from the same general source, and
 10 by the same general system of works applicable to the other
 11 lands of such the proposed district, may not be excluded
 12 from the proposed district if the owner or owners of such
 13 the lands shall file in such the district court a written
 14 request that such the lands be included, ~~in such district,~~
 15 ~~nor shall any lands which will not, in the judgment of the~~
 16 ~~court, be benefited by irrigation by means of said system of~~
 17 ~~works, nor shall lands already under irrigation, nor lands~~
 18 ~~having water rights appurtenant thereto, nor lands that can~~
 19 ~~be irrigated from sources more feasible than the district~~
 20 ~~system, be included within such proposed district, unless~~
 21 ~~the owner of such lands shall consent in writing to the~~
 22 ~~inclusion of such lands in the proposed district, as~~
 23 ~~hereinafter provided, and to this end the court may~~
 24 ~~subdivide lands included within the petition or proposed at~~
 25 ~~the hearing to be included within such district into~~

1 ~~forty-acre tracts or smaller subdivisions thereof; provided,~~
 2 ~~however, that where a district is formed to co-operate with~~
 3 ~~the--United--States,--lands--previously--irrigated--and--having~~
 4 ~~water rights appurtenant thereto may be included within the~~
 5 ~~district boundaries, if it shall appear to the court that~~
 6 ~~the same will be benefited thereby; and provided further,~~
 7 ~~that all lands having water rights appurtenant thereto,~~
 8 ~~which are served by a system of irrigation works supplying~~
 9 ~~more than ten thousand acres of lands, may, in the~~
 10 ~~discretion of the court, be included in the proposed~~
 11 ~~district on petition of at least a majority both in number~~
 12 ~~and acreage of the holders of title or evidence of title to~~
 13 ~~the land having water rights appurtenant thereto and served~~
 14 ~~by the same system of irrigation works. Lands of the~~
 15 ~~district need not be contiguous, and any particular tract or~~
 16 ~~tracts, irrespective of their location in the district, may~~
 17 ~~be excluded.~~

18 (b) Lands which will not, in the judgment of the
 19 court, be benefited by irrigation from the works of the
 20 proposed district; which are already under irrigation; which
 21 have appurtenant water rights; or which can be irrigated
 22 from sources more feasible than the proposed district may
 23 not be included in the district unless the owner of such
 24 lands consents in writing to the inclusion.

25 (c) Notwithstanding the provisions of subsection

1 (3)(b), whenever a district is formed to cooperate with the
 2 United States, lands previously irrigated and having
 3 appurtenant water rights may be included within the district
 4 boundaries if it appears to the court that the lands will be
 5 benefited by inclusion.

6 (d) All lands having appurtenant water rights, served
 7 by an irrigation works system supplying more than 10,000
 8 acres, may, in the discretion of the court, be included in
 9 the proposed district upon petition by at least a majority,
 10 both in number and acreage, of the holders of title or
 11 evidence of title to the lands served by the irrigation
 12 system and having appurtenant water rights.

13 (e) Lands of the district need not be contiguous. The
 14 location of a particular tract in the proposed district is
 15 not a bar to exclusion.

16 (4) For purposes of including or excluding land from a
 17 proposed district, the court may subdivide any tract into
 18 40-acre or smaller parcels.

19 (4)(5) If, on final hearing, it is found by the court
 20 that the petition does not substantially comply with the
 21 foreseid requirements of this act, or that the facts
 22 therein stated are not sustained by the evidence, then the
 23 court shall dismiss the petition at the cost of the
 24 petitioners, and shall make and enter an order to that
 25 effect, but if it is found that said the petition

1 substantially complies with said ~~the~~ requirements, and that
 2 the facts therein stated are sustained by the evidence, then
 3 the court shall make and enter an order:

4 1-(a) ~~Setting~~ setting forth said findings and allowing
 5 said ~~the~~ petition;

6 2-(b) ~~Estoblishing~~ establishing the proposed district;

7 3-(c) ~~Giving~~ giving accurate descriptions of the lands
 8 included within the proposed district;

9 4-(d) ~~Dividing~~ dividing the proposed district into
 10 three, five, or seven divisions, as may be advisable in view
 11 of the size of the district;

12 5-(e) ~~Appointing~~ appointing as commissioner one
 13 competent person for each division of the district, having
 14 the qualifications as provided by section 89-1205.

15 1-(5)-(6) Such ~~The~~ finding and order ~~shall--be~~ are
 16 conclusive upon all the owners of lands within the district
 17 that they have assented to and accepted the applicable
 18 provisions of ~~this act~~ chapters 12 through 21 of Title 89
 19 and ~~shall--be~~ are final unless appealed from to the supreme
 20 court within sixty ~~60~~ days from the day of entry of such ~~the~~
 21 order. A copy of such ~~the~~ order, duly certified to by the
 22 clerk of said ~~the district~~ court, shall be filed for record
 23 within thirty ~~30~~ days after such ~~the~~ order is made and
 24 entered with the county clerk and recorder of the county
 25 wherein ~~where~~ the lands included within such ~~the~~ district

1 are situated, ~~provided,--however,--there--shall--be--omitted~~
 2 ~~from--such--copy--lands~~ lands not situated in the county in
 3 which such ~~the~~ copy is filed shall be omitted from the copy.

4 1-(6)-(7) Every irrigation district so established
 5 hereunder is ~~hereby--declared--to--be~~ a public corporation for
 6 the promotion of the public welfare, and the lands included
 7 therein shall constitute all the taxable and assessable
 8 property of such district for the purposes of ~~this act~~
 9 chapters 12 through 21 of Title 89."

10 Section 16. Section 89-1205, R.C.M. 1947, is amended
 11 to read as follows:

12 "89-1205. Qualifications of commissioners and term of
 13 office--~~office~~--bond. (1) No person ~~shall--be--qualified--to~~
 14 ~~hold--the--position--of~~ may be a commissioner unless he ~~be is~~
 15 an owner of land within the district and ~~shall--be~~ is a
 16 resident of the county in which the division of the
 17 district, or some portion thereof, for which such
 18 ~~commissioners--so the commissioner is~~ elected, is situated.

19 (2) The commissioners appointed ~~as--aforesaid~~ shall
 20 hold their respective offices until the second Saturday in
 21 April following their appointment, and until their
 22 respective successors are elected and qualified ~~as--and--in~~
 23 ~~the--manner--hereinafter--provided.~~ Each of such ~~the~~
 24 commissioners shall qualify in the same manner as justices
 25 of the peace, ~~and--shall--give--a--bond--in--the--sum--of--two~~

~~thousand dollars, conditioned upon the faithful performance~~
~~of his duties, to be made payable to the state for the~~
~~benefit of the district, which~~ The bond for a commissioner
 shall be approved by the district court or judge thereof and
 filed in the office of the clerk of ~~said the court,~~
~~provided that in~~ In case any district ~~organized~~ established
 under this ~~title~~ chapter is appointed fiscal agent of the
 United States, or is authorized by the United States ~~is~~
 authorized to make collections of moneys for and on behalf
 of the United States in connection with any federal
 reclamation project, each such commissioner shall execute a
 further and additional official bond in such sum as the
 secretary of the interior may require, conditioned for the
 faithful discharge of the duties of his office, and the
 faithful discharge by the district of its duties as fiscal
 or other agent of the United States under any such
 appointment or authorization, and any such bond may be sued
 upon by the United States, or by any person injured by the
 failure of ~~such the~~ commissioner or the district to fully,
 promptly, and completely perform their respective duties."

Section 17. Section 89-1208, R.C.M. 1947, is amended
 to read as follows:

"89-1208. Compensation and expenses of commissioners--
~~penalty for interest in contract bonds of commissioners.~~
(1) The commissioners, when sitting as a board or when

engaged in the business of the district, shall each receive
~~an amount~~ not to exceed ~~twenty dollars (\$20)~~ per a day for
 services, and, in addition thereto, their necessary expenses
 in attending meetings, or when otherwise engaged on district
 business, including premiums on qualifying bonds and any
 other bonds required of them in connection with their
 office, provided such expenses and per diem be are approved
 by a unanimous vote of ~~said the~~ board, and a mileage
 allowance of ~~twelve 12~~ cents ~~(\$12)~~ per a mile in attending
 board meetings or when engaged in the business of the
 irrigation district.

(2) No commissioner or any other officer named in this
 act shall may in any manner be interested, directly or
 indirectly, in any contract awarded or to be awarded by the
 board, or in the profits derived therefrom, ~~and for~~ For any
 violation of this provision, such officer ~~shall be deemed is~~
 guilty of a misdemeanor and his conviction thereof shall
 work forfeiture of his office and he shall be punished by a
~~fine not exceeding five hundred dollars (\$500.00), or by~~
~~imprisonment in the county jail not exceeding six (6) months~~
~~or by both such fine and imprisonment~~ as provided in
94-7-401.

(3) The commissioners of ~~said an~~ irrigation district
 shall each furnish a bond in the penal sum of ~~twenty-five~~
~~hundred dollars (\$2,500.00),~~ with corporate surety

1 conditioned for the faithful performance of their duties
 2 under this act, ~~and the~~ The secretary shall furnish bond,
 3 with corporate surety, in the sum of ~~one-thousand-dollars~~
 4 ~~(\$1,000.00)~~, conditioned for the faithful performance of his
 5 duties pursuant to this act, and for the proper and
 6 safekeeping of the records and documents of ~~said the~~
 7 district, in all cases where the obligations of ~~said the~~
 8 district, either existing or proposed, total ~~two-hundred-and~~
 9 ~~fifty--thousand--dollars-(\$250,000.00)~~ or over. In all other
 10 cases the bond for ~~said the~~ commissioners shall be in the
 11 sum of ~~one-thousand-dollars-(\$1,000.00)~~."

12 Section 18. Section 89-1220, R.C.M. 1947, is amended
 13 to read as follows:

14 "89-1220. Purpose. This act is not intended to
 15 conflict in any way with present statutes governing
 16 irrigation districts, but is for the sole purpose of making
 17 it possible for one or more irrigation districts to function
 18 jointly through a central control agency for the purpose of
 19 efficiency, simplicity, and economy."

20 Section 19. Section 89-1311, R.C.M. 1947, is amended
 21 to read as follows:

22 "89-1311. Qualification of electors -- and nature of
 23 voting rights, how determined. (1) At all elections held
 24 under the provisions of this act, except as herein otherwise
 25 expressly provided, the following holders of title, or

1 evidence of title, to lands within the district, herein
 2 designated electors, ~~shall be~~ are entitled to vote:

3 1. ~~(a)~~ All all persons having the qualifications of
 4 electors under the constitution and general and school laws
 5 of the state;

6 2. ~~(b)~~ Guardians guardians, executors, administrators,
 7 and trustees residing in the state;

8 3. ~~(c)~~ Domestic domestic corporations, by their duly
 9 organized authorized agents.

10 (2) In all elections held under this act, each elector
 11 ~~shall be~~ is permitted to cast one vote for each forty 40
 12 acres of irrigable land, or major fraction thereof, owned by
 13 ~~such the~~ elector within the district, irrespective of the
 14 location of ~~such the~~ irrigable lands within the tracts
 15 designated by the commissioners for assessment and taxation
 16 purposes, or within congressional subdivisions, platted lots
 17 or blocks, ~~(except as hereinafter provided for)~~, election
 18 precincts, or district divisions, but any elector owning any
 19 less than forty 40 acres of irrigable land ~~shall be~~ is
 20 entitled to one vote. Until ~~actual-determination-of~~ the
 21 irrigable area under the proposed plan of reclamation
 22 proposed is had determined, all land included within the
 23 boundaries of the district shall be ~~deemed-to-be~~ considered
 24 irrigable land for election purposes.

25 (3) ~~Where~~ Whenever land is owned by co-owners, ~~said~~

1 the owners may designate one of their number or an agent
 2 to cast the vote for said the owners, and one vote only for
 3 each forty 40 acres of irrigable land or major fraction
 4 thereof--shall may be cast by said the voting co-owner or
 5 agent. Where Whenever land is under contract of sale to a
 6 purchaser residing within the state, such the purchaser may
 7 vote on behalf of the owner of said the land. When voting,
 8 the agent of a corporation or of co-owners, or the co-owner
 9 designated for purpose of voting, or the purchaser of land
 10 under contract of sale, as the case may be, shall file with
 11 the secretary of the district or with the election
 12 officials, a written instrument of his authority, executed
 13 and acknowledged by the proper officers of said the
 14 corporation, or by said the co-owners, or by the owner of
 15 such land under contract of sale, as the case may be, and
 16 thereupon such the agent or co-owner or purchaser, as the
 17 case may be, shall--be--deemed is an elector within the
 18 meaning of this act. Where Whenever the total irrigable
 19 acreage within any one district has been platted or
 20 subdivided into lots or blocks to the extent of five--per
 21 cent--{5%} or more of the total acreage of the district, each
 22 elector shall--be is permitted to cast one vote for each one
 23 acre of irrigable land or major fraction thereof owned by
 24 such the elector within the district, irrespective of the
 25 location of such irrigable lands within the tracts

1 designated by the commissioners for the assessment and
 2 taxation purposes or within the congressional subdivisions,
 3 but any elector owning any less than one 1 acre of irrigable
 4 land within said the district shall--be is entitled to one
 5 vote. The balloting shall take place in the following
 6 manner: ten--{10} votes or less, separate ballots will be
 7 used; more than ten--{10} votes, the elector shall vote in
 8 blocks of ten 10 using one ballot for each ten 10 votes and
 9 separate ballots for odd votes over multiples of ten 10. The
 10 election shall otherwise conform with the provisions set-out
 11 in--section of 89-1308 of--this--chapter. It--shall--be--the--duty
 12 of--the the chairman of the commissioners or such
 13 commissioner as he may delegate--to shall determine before
 14 each election whether the provisions of this paragraph
 15 subsection are in force or whether the provisions heretofore
 16 set out shall apply."

17 Section 20. Section 89-1319, R.C.M. 1947, is amended
 18 to read as follows:

19 "89-1319. Application of act. This act shall apply
 20 only when twenty 20 or more owners of land with water rights
 21 appurtenant thereto--serving--at--least--two--thousand--acres--of
 22 land--contiguous--in--location--or--of--reasonably--compact--area--
 23 at are being served by one stream and its branches or from
 24 one source of water supply and in which the rights to the
 25 use of water shall have been determined by decree of a court

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

4 Section 21. Section 89-1320, R.C.M. 1947, is amended
 5 to read as follows:

6 "89-1320. Petition~~1~~₂--hearing~~1~~₂ and notice--order of
 7 court--commissioners. Whenever the owners of land and water
 8 rights, as described in section 89-1319, desire to organize
 9 for the purposes mentioned in this act, a petition to that
 10 effect, signed by not less than ~~sixty-per-cent~~ 60% of the
 11 individual landowners who ~~shall~~ represent not less than
 12 ~~fifty-one-per-cent~~ 51% of the irrigable acres to be affected
 13 by such ~~the proposed~~ district and ~~fifty-one-per-cent~~ 51% of
 14 the inches ~~INCHES--OF--WATER--OR~~ cubic feet of water per
 15 ~~second~~₂ decreed or adjudicated in the stream ~~in~~ from which
 16 such ~~the~~ irrigation district is to operate, shall be filed
 17 with the clerk of the district court of the county or
 18 counties in which such ~~the~~ district is to be created. ~~It is~~
 19 ~~provided, however, that for~~ For the purposes ~~purpose~~ of
 20 determining whether the ~~requirement~~ requirements of acreage
 21 and cubic feet of water inches per second ~~OR INCHES-OF-WATER~~
 22 ~~has have~~ been met by the petition, water diverted from the
 23 adjudicated stream and distributed under other irrigation
 24 districts other than the one to be created under this act,
 25 ~~shall may~~ not be considered; however, such water and acreage

1 shall be required to pay ~~any-and~~ all assessments the same as
 2 other water and acreage affected by irrigation districts
 3 created under this act. Upon filing of ~~said the~~ petition,
 4 the court shall set a date for a hearing on the petition,
 5 and a written notice not less than ~~five~~ 5 days prior to such
 6 ~~the~~ hearing shall be mailed to each landowner or water right
 7 owner affected by the proposed district. If the court finds,
 8 from such hearing, that an irrigation district, as prayed
 9 for in the petition, is feasible and practical, the court
 10 shall issue an order creating ~~such the~~ irrigation district,
 11 which shall constitute the authority for the district to
 12 function for the purposes and intent as outlined in this
 13 act. The court shall appoint five commissioners₂ who ~~shall~~
 14 be are landowners or water right owners, affected by such
 15 district₂ to act until the first annual meeting~~as-provided~~
 16 hereafter."

17 Section 22. Section 89-1322, R.C.M. 1947, is amended
 18 to read as follows:

19 "89-1322. Duty of trustees--~~limit-on~~₂ levy₂ to--cover
 20 expense--~~determination-of-levy--~~ and indebtedness other--than
 21 warrant--indebtedness--not--to--be--created. The board of
 22 trustees ~~shall-be-authorized-to~~ may develop the source of
 23 supply₂ to clean, improve₂ and develop the channel of the
 24 stream₂ and to do and perform other work on the main
 25 distributing system as will be beneficial to the better

1 distribution of the waters of such ~~the~~ decreed water right
 2 stream, but in no case shall ~~may~~ the board, to cover the
 3 expenses of such work, levy to exceed ~~twenty-five~~ 25 cents
 4 per acre in any one year. ~~It is further provided, that when~~
 5 ~~Whenever~~ waters of the stream under the irrigation district,
 6 created by this act, are commingled with other waters or it
 7 is difficult to determine just how many acres are irrigable
 8 by the water rights held in such ~~the~~ stream, the acre basis
 9 of levy shall be determined by the number of ~~inches~~ INCHES
 10 ~~OR INCHES OR cubic feet of water per second~~ owned by such
 11 party or parties at the rate of ~~one inch of water, statutory~~
 12 ~~measurement, ONE INCH OF WATER, STATUTORY MEASUREMENT, OR~~
 13 ~~ONE INCH OF WATER, STATUTORY MEASUREMENT, OR .025 cubic feet~~
 14 ~~of water per second~~ to the acre. ~~It is further provided,~~
 15 ~~that the~~ The board shall have no authority to ~~may not~~ issue
 16 bonds or to incur any indebtedness other than warrant
 17 indebtedness under the limitations ~~proposed~~ imposed by law."

18 Section 23. Section 89-1411, R.C.M. 1947, is amended
 19 to read as follows:

20 "89-1411. ~~Hearing and notice publication~~ Notice of
 21 hearing. On such petition being filed, the district court or
 22 judge thereof shall make an order fixing the time and place
 23 of for a hearing ~~same~~ and directing that notice thereof be
 24 given. Thereupon the clerk of ~~said the~~ court shall cause to
 25 be published at least once a week for two 2 successive

1 calendar weeks, in the ~~official~~ a newspaper of general
 2 circulation in the county where ~~said the~~ petition is filed,
 3 WITH PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE
 4 COUNTY, a notice stating the time and place fixed by the
 5 district court ~~fixed~~ when and where the hearing on ~~said the~~
 6 petition will be had and containing a brief statement of the
 7 matters set forth in ~~said the~~ petition and the object
 8 thereof. ~~If~~ If any portion of the lands sought to be
 9 excluded from the district ~~lie~~ lies within any other county
 10 or counties, then ~~said the~~ notice shall also be published as
 11 provided above provided in the ~~official~~ a newspaper of such
 12 general circulation in the other county or counties, WITH
 13 PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE OTHER
 14 COUNTY OR COUNTIES. The first publication of ~~said the~~ notice
 15 shall ~~be~~ may not be less than thirty 30 days prior to the
 16 time mentioned in ~~said the~~ notice for ~~said the~~ hearing."

17 Section 24. Section 89-1616, R.C.M. 1947, is amended
 18 to read as follows:

19 "89-1616. ~~Penalty for interfering~~ Interference with
 20 commissioners or with distribution system ~~penalty~~. Any
 21 person who shall in any manner ~~interfere~~ interferes with the
 22 commissioners of an irrigation district, or their lawful
 23 agent or employee in the carrying out of the powers
 24 conferred by this act, or who shall ~~change~~ changes or ~~temper~~
 25 tampers with any lock box, head gate, or other device for

1 the apportionment or distribution of water, installed by or
 2 under the authority of such ~~the~~ commissioners, or who shall
 3 in any manner ~~obstruct~~ obstructs or ~~change~~ changes the flow
 4 of water in the distribution system of any irrigation
 5 district without authority of the commissioners of the
 6 district, shall, in the discretion of the commissioners, be
 7 subject to a forfeiture of his right to the delivery of
 8 water through the distribution system of the district, so
 9 long as such acts ~~shall~~ continue, and ~~shall likewise be~~ is
 10 guilty of ~~a misdemeanor and, on conviction, shall be~~
 11 ~~punishable by a fine of not less than ten dollars (\$10.00)~~
 12 ~~nor more than one hundred dollars (\$100.00), or by~~
 13 ~~imprisonment in the county jail for not less than one (1)~~
 14 ~~day nor more than thirty (30) days or by both such fine and~~
 15 ~~imprisonment~~ obstructing a public officer or criminal
 16 mischief, as appropriate, and is punishable as provided by
 17 94-7-302 or 94-6-102, as applicable."

18 Section 25. Section 89-1701, R.C.M. 1947, is amended
 19 to read as follows:

20 "89-1701. Limitations on debt-incurring power. (1) The
 21 board of commissioners or other officers of the district
 22 ~~shall have no power to may not~~ incur any debt or liability
 23 whatever, either by issuing bonds or otherwise, except as
 24 provided in this act, ~~and any debt or liability incurred in~~
 25 ~~excess of such express provisions shall be and remain~~

1 ~~absolutely void, except that for the purpose of organization~~
 2 ~~or for any of the immediate purposes of this act, or to make~~
 3 ~~or purchase surveys, plans, and specifications, or for~~
 4 ~~stream gauging and gathering data, or to make any repairs~~
 5 ~~occasioned by any calamity or other unforeseen contingency,~~
 6 ~~the board of commissioners may, in any one year, incur the~~
 7 ~~indebtedness of as many dollars as there are acres in the~~
 8 ~~district, and may cause warrants of the district to issue~~
 9 ~~therefor. No irrigation district may become indebted, in any~~
 10 ~~manner or for any purpose in any one year, in an amount~~
 11 ~~exceeding 15% of the assessed valuation of the district,~~
 12 ~~except as provided in subsection (2).~~

13 (2) (a) For the purpose of organization; for any of
 14 the immediate purposes of this chapter; to make or purchase
 15 surveys, plans, and specifications; for stream gauging and
 16 gathering data; or to make any repairs occasioned by any
 17 calamity or other unforeseen contingency, the board of
 18 commissioners may, in any one year, incur the indebtedness
 19 of as many dollars as there are acres in the district and
 20 may cause warrants of the district to issue therefor.

21 (b) For the purpose of organization, for any of the
 22 immediate purposes of this chapter, or to meet the expenses
 23 occasioned by any calamity or other unforeseen contingency,
 24 the board of commissioners may, in any one year, incur (in
 25 addition to the 15% limitation of subsection (1)) an

additional indebtedness not exceeding 10% of the assessed valuation of the district and may cause warrants of the district to issue therefor.

(c) The limitation of subsection (1) does not apply to warrants issued for unpaid interest on the valid bonds of any irrigation district.

(d) The limitation of subsection (1) does not apply to any bonds issued under this chapter pursuant to a provision which expressly supersedes the limitation.

(3) Any debt or liability incurred in excess of the limitations provided by the irrigation district laws is void."

Section 26. Section 89-1703, R.C.M. 1947, is amended to read as follows:

"89-1703. Petition for bonds and action thereon issuance of bonds. (1) ~~For the purpose of providing the necessary funds for constructing the necessary irrigation canals and works, including drainage works, and works for the generation and distribution of electrical energy within said district and acquiring the necessary property and rights therefor and for the purpose of acquiring by purchase or otherwise waters, water rights, canals, reservoirs, reservoir sites, and irrigation works, drainage works, and works for the generation and distribution of electrical energy constructed, or partially constructed, and~~

~~for the purpose of meeting the expense theretofore incurred or to be thereafter incurred incident to such construction or acquisition of such works and property, including administrative engineering and legal expenses, and for the assumption as principal or guaranty of indebtedness to the United States on account of district lands and for the purpose of otherwise carrying out the provisions of this act and of providing a sum sufficient to pay the interest on all of such bonds for five (5) years or less, the board of commissioners of any district heretofore or hereafter organized under the provisions of this act may authorize and issue the negotiable coupon bonds of the district as and in the manner hereinafter provided. A sum sufficient to redeem or pay all or any portion of the existing indebtedness of such district evidenced by outstanding bonds, delinquent interest coupons and accrued interest or warrants together with all delinquent and accrued interest whether such indebtedness be due or not due or which has or may hereafter become payable at the option of the district or by consent of the bondholders or by any lawful means may be included as a portion of the necessary funds for which said bonds are authorized and issued. The board of commissioners of a district established under the provisions of chapter 12 of Title 89 may authorize and issue negotiable coupon bonds for the district for the purpose of providing~~

1 the necessary funds:

2 (a) for constructing the necessary irrigation canals
3 and works, including drainage works, and constructing works
4 for the generation and distribution of electricity within
5 the district and for acquiring the property and rights
6 necessary therefor;

7 (b) for acquiring, by purchase or otherwise, waters,
8 water rights, canals, reservoirs, reservoir sites,
9 irrigation works, drainage works, and works for the
10 generation and distribution of electricity, whether such
11 works are constructed or partially constructed;

12 (c) for meeting the expense incurred incident to the
13 construction or acquisition of such works and property,
14 including administrative, engineering, and legal expenses;

15 (d) for assuming, as principal or guarantor,
16 indebtedness to the United States on account of district
17 lands;

18 (e) for providing a sufficient amount of money to pay
19 the interest on all negotiable coupon bonds of the district
20 for a period not exceeding 5 years;

21 (f) for redeeming or paying all or any portion of the
22 existing indebtedness of the district, evidenced by
23 outstanding bonds; delinquent interest coupons and accrued
24 interest; or warrants, together with all delinquent and
25 accrued interest, whether such indebtedness has or may

1 hereafter become payable at the option of the district, by
2 consent of the bondholders or by any lawful means; or

3 (g) for otherwise carrying out the provisions of the
4 irrigation district laws.

5 (2) No bonds provided for in this section ~~shall~~ may be
6 authorized or issued by or on behalf of any irrigation
7 district organized hereunder, and no contract ~~shall~~ may be
8 made with the United States as provided in section 89-1301,
9 provided, except upon a petition signed by at least ~~sixty~~
10 ~~per--centum--{60%}~~ in number and acreage of the holders of
11 title or evidence of title to lands included within ~~said the~~
12 district, or by ~~seventy-five-per-centum at least {75%}~~ in
13 number and acreage of the holders of title or evidence of
14 title to such lands who are residents of the county or
15 counties in which lands of the district are situated. ~~Such~~
16 ~~The~~ petition shall be addressed to the board of
17 commissioners; ~~shall~~ shall set forth the aggregate amount of
18 bonds to be issued, and the purpose or purposes thereof; ~~shall~~
19 ~~shall~~ have attached thereto an affidavit verifying the
20 signatures to ~~said the~~ petition; and ~~shall~~ be filed with
21 the secretary of the board of commissioners. When bonds,
22 however, are issued for the sole purpose of redeeming or
23 paying the existing and outstanding bonds or warrants, or
24 both, including delinquent and accrued interest, of such
25 district, such bonds may be authorized and issued in the

1 manner provided for by sections 89-1712 and 89-1713.

2 (3) Upon the filing of ~~such the~~ petition, the board of
 3 commissioners shall, by appropriate order or resolution,
 4 authorize and direct the issuance of the bonds of the
 5 district to the amount and for the purpose or purposes
 6 specified in the petition; ~~fix~~ the numbers, denominations,
 7 and maturity or maturities of ~~said the~~ bonds; specify the
 8 rate of interest thereon; and whether payable annually or
 9 semiannually; designate the place of payment of ~~said the~~
 10 bonds and the interest coupons, within or without the state
 11 of Montana; prescribe the form of ~~said the~~ bonds and
 12 interest coupons to be attached thereto; and provide for the
 13 levy of a special tax or assessment as provided in this act
 14 provided on all the lands in the district for the irrigation
 15 and benefit of which ~~said the~~ district was organized and
 16 ~~said the~~ bonds are issued; or ~~said the~~ contract is to be
 17 made, sufficient in amount to pay the interest on and
 18 principal of ~~said the~~ bonds when due and all amounts to be
 19 paid to the United States under any contract between the
 20 district and the United States, accompanying which bonds of
 21 the district have not been deposited with the United States
 22 as provided in section 89-1301 provided.

23 (4) If contract is to be made with the United States
 24 as provided in section 89-1301 provided, and bonds are not
 25 to be deposited with the United States in connection with

1 such ~~the~~ contract, the board of commissioners need not
 2 authorize the issuance of bonds, or if bonds are required in
 3 addition to ~~such the~~ contract, ~~the commissioners~~ may
 4 authorize bonds only for the amount needed in addition to
 5 ~~such the~~ contract. Such order or resolution shall also
 6 provide for the confirmation proceedings in the district
 7 court hereinafter-mentioned as provided in 89-1704."

8 Section 27. Section 89-1704, R.C.M. 1947, is amended
 9 to read as follows:

10 "89-1704. Confirmation by district court. (1) Within
 11 ~~ten-10~~ days after the adoption of the order or resolution
 12 mentioned in the preceding section, the board of
 13 commissioners shall file a petition in the district court of
 14 the judicial district wherein ~~where~~ is located the office of
 15 ~~said the board~~ is located to determine the validity of the
 16 proceedings ~~had~~ relative to the issuance of ~~said the~~ bonds
 17 and ~~to the~~ levy of ~~said the~~ special tax or assessment.

18 (2) Such action shall be in the nature of a proceeding
 19 in rem, and jurisdiction of all parties interested shall be
 20 had by giving notice ~~given as hereinafter provided~~. Such ~~the~~
 21 petition shall set forth:

22 ~~11~~(a) generally, the establishment and organization
 23 of the district;

24 ~~12~~(b) a certified copy of the petition mentioned in
 25 the preceding section;

1 ~~(3)(c)~~ a certified copy of the order or resolution
2 mentioned in the preceding section;

3 ~~(4)(d)~~ a prayer for the confirmation of the
4 proceedings of the board stated in the petition, and for the
5 confirmation of the bond issue and the special tax or
6 assessment levied to pay the bonds and interest thereon.

7 ~~(2)(3)~~ Upon the filing of said ~~this~~ petition in the
8 district court, the court ~~or judge thereof~~ shall fix the
9 time for the hearing of said ~~the~~ petition, which ~~shall~~ may
10 not be less than ~~fifteen-(15)~~ days from the date of filing
11 the petition in said ~~the~~ court, and shall order the clerk of
12 the court to give notice of the filing of said ~~the~~ petition
13 and the date of the hearing thereon, by publication at least
14 once a week for ~~two~~ 2 calendar weeks in a newspaper
15 published or of general circulation in the county where the
16 office of the board of commissioners of the district is
17 situated, and also by posting a written or printed copy of
18 such notice in at least three public places in each division
19 of the district, the first of such publications and such
20 posting to be not less than ~~fifteen-(15)~~ days prior to the
21 date fixed for said ~~the~~ hearing.

22 ~~(3)(4)~~ Said ~~the~~ notice shall state the substance of
23 the petition and the time and place fixed for the hearing
24 thereon, and that any person interested in or whose rights
25 may be affected by the issuance or sale of said ~~the~~ bonds,

1 or the levy of said ~~the~~ special tax or assessment, or the
2 proceedings had or to be had by the said board of
3 commissioners with respect to said ~~such~~ matters, may, on or
4 before the day fixed for the hearing of said ~~the~~ petition,
5 ~~demur-to-or~~ answer said ~~the~~ petition, and may appear at said
6 ~~the~~ hearing and contest the granting of the prayer of said
7 ~~the~~ petition, and the entry of any order of confirmation
8 pursuant thereto.

9 ~~(5)~~ Any person interested in or whose rights may be
10 affected by the issuance or sale of said ~~the~~ bonds, or the
11 levy of said ~~the~~ special tax or assessment, or the
12 proceedings had or to be had by the board of commissioners
13 of the district in connection with said ~~such~~ matters, and
14 the entry of any order of confirmation pursuant thereto, may
15 enter his appearance in such proceedings and ~~demur--to--or~~
16 answer said ~~the~~ petition and contest the granting of the
17 prayer of said ~~the~~ petition.

18 ~~(4)(6)~~ The provisions of Title 93 respecting the
19 demurrer--or answer to a verified complaint ~~shall-be are~~
20 applicable to ~~a-demurrer-or an~~ answer to said ~~the~~ petition.
21 The persons so ~~demurring-to-or~~ answering said ~~the~~ petition
22 ~~shall-be are~~ the defendants in the proceeding, and the board
23 of commissioners ~~shall-be is~~ the plaintiff. Every material
24 statement of the petition, not specifically controverted by
25 the answer, shall be taken as true, and every holder of

1 title or evidence of title to lands included in the district
 2 failing to answer ~~or demur~~ to the petition shall be deemed
 3 ~~considered~~ to admit as true all the material statements
 4 hereof ~~thereof~~. The procedure in such action shall be
 5 determined by Title 93.

6 ~~(5)(1)~~ Upon the hearing, the district court shall find
 7 and determine whether the provisions and requirements of the
 8 preceding section have been complied with, and ~~whether~~
 9 notice of the filing of the petition in the district court
 10 and of the time and place of the hearing thereon has been
 11 duly given for the time and in the manner herein prescribed,
 12 and ~~shall have power and jurisdiction to~~ ~~may~~ examine and
 13 determine the regularity, legality, and validity of the
 14 proceedings had preliminary and relative to the issuance of
 15 the bonds, and the levy of the special tax or assessment in
 16 the petition mentioned, and the legality and validity of
 17 ~~said the~~ bonds and special tax or assessment, and ~~any~~ and
 18 all actions taken by the board of commissioners in
 19 connection with ~~said such~~ matters, and shall hear all
 20 objections filed to ~~said the~~ proceedings, or any part
 21 thereof, or to the issuance of ~~said the~~ bonds, or the levy
 22 of the ~~said~~ special tax or assessment or any portion
 23 thereof. The court, in inquiring into the regularity,
 24 legality, and validity of ~~said the~~ proceedings, shall
 25 disregard any error, omission, or other irregularity which

1 does not affect the substantial rights of the parties to
 2 ~~said the~~ proceedings. The court may ratify, approve, and
 3 confirm ~~said the~~ proceedings in whole or in part, and may
 4 ratify, approve, and confirm ~~said the~~ bonds and special tax
 5 or assessment, and enter its judgment ~~or decree~~ accordingly.

6 ~~(6)(8)~~ From any such judgment ~~or decree~~ an appeal may
 7 be taken to the supreme court at any time within ~~ten~~ ~~(10)~~
 8 days from the entry of such ~~the~~ judgment ~~or decree~~. Such ~~the~~
 9 appeal shall be taken, perfected, and heard in the manner
 10 prescribed by Title 93 covering appeals from district courts
 11 to the supreme court. If no such appeal be ~~is~~ taken within
 12 the ~~in~~ time aforesaid, or if taken and the judgment ~~or~~
 13 decree of the district court be ~~is~~ affirmed by the supreme
 14 court, ~~such the judgment or decree shall be forever~~
 15 ~~conclusive upon all the world as to the validity of such~~
 16 ~~bonds and said special tax or assessment, and the same shall~~
 17 ~~never be called into question in any court in the state is~~
 18 ~~final~~. The costs of ~~said the~~ proceedings shall be allowed or
 19 apportioned between the parties in the discretion of the
 20 court."

21 Section 28. Section 89-1705, R.C.M. 1947, is amended
 22 to read as follows:

23 "89-1705. Details relating to bonds. (1) All bonds
 24 issued under the provisions of this act ~~shall be payable in~~
 25 ~~gold coin of the United States, of the standard weight and~~

1 ~~finances--[fineness]--existing-at-the-time-of-the-issue; and~~
 2 shall run for a period not longer than ~~forty~~ {40} years from
 3 their date; but may contain a clause providing for their
 4 prior redemption and payment, at the option of the board of
 5 commissioners of the district, on any interest payment date
 6 after ~~five--{5}~~ years from their date. Instead of straight
 7 maturity bonds, bonds may be issued to mature serially at
 8 such times and in such amounts as the board of commissioners
 9 shall determine, but no bonds so issued ~~shall~~ may run for a
 10 longer period than ~~forty~~ {40} years from the date of issue.
 11 ~~Said the~~ bonds shall bear interest from their date until
 12 paid, payable annually or semiannually, with the
 13 installments of interest to date of maturity of principal to
 14 be evidenced by appropriate coupons attached to each bond.
 15 ~~Said the~~ bonds and interest coupons shall be payable at such
 16 place or places, within or without the state of Montana, as
 17 the board of commissioners shall prescribe.

18 (2) ~~Such the~~ bonds shall be of such denomination or
 19 denominations, and in such form, as the board of
 20 commissioners shall prescribe. An issue of bonds is hereby
 21 defined to be all the bonds issued in accordance with a
 22 resolution or order of the board of commissioners. Each
 23 issue of the bonds of a district shall be numbered
 24 consecutively as authorized, and the bonds of each issue
 25 shall be numbered consecutively. The board of commissioners

1 shall fix the date of ~~said the~~ bonds, or ~~they~~ may divide any
 2 issue into two {2} or more divisions and fix different dates
 3 for the bonds of each ~~respective~~ division. The date of any
 4 bond must be subsequent to the order or resolution
 5 authorizing it and prior to its delivery to a purchaser from
 6 the district.

7 (3) All bonds issued hereunder shall be signed by the
 8 president and attested by the secretary of the board under
 9 the corporate seal of the district, and each of the interest
 10 coupons to be attached to ~~said the~~ bonds shall be executed
 11 by the signatures of ~~said the~~ president and secretary. Each
 12 bond shall be signed, and each interest coupon shall be
 13 executed, by the president and secretary of the board of
 14 commissioners who may be in office at the date of ~~said the~~
 15 bond and coupons, or at any time thereafter prior to the
 16 delivery of ~~said the~~ bond to the purchaser thereof from the
 17 district.

18 (4) The board of commissioners may provide for the
 19 registration of bonds in their discretion. The secretary of
 20 the board of commissioners and county treasurer, ~~each~~ shall
 21 each keep a record of the bonds sold, or otherwise disposed
 22 of, i their date, number, amount, maturity, or maturities, i
 23 to whom sold, i rate of interest, i and the place or places of
 24 payment thereof."

25 Section 29. Section 89-1713, R.C.M. 1947, is amended

1 to read as follows:

2 "89-1713. Purpose of bonds -- petition, requirements,
3 and contents of. (1) Any An irrigation district may issue
4 such refunding bonds for the purpose of redeeming or paying
5 the indebtedness, or any portion thereof, of the district,
6 whether represented by existing and outstanding bonds,
7 interest coupons thereof, or warrants, or--both, including
8 accrued and unpaid interest on said the bonds, coupons, and
9 warrants, and whether such indebtedness be is due or not
10 due, or which has or may hereafter become payable at the
11 option of the district, or by consent [of] the bondholders
12 or warrant holders, or--both, or by any legal means, and
13 whether such indebtedness be is now existing or may
14 hereafter be created, and there shall not be funds in the
15 treasury of such the district are not available for the
16 payment of the same. Such The refunding bonds may be issued
17 in one or more series. The petition for such the refunding
18 bonds, signed, as required by law, by at least sixty-per
19 centum--(60%) in number and acreage of the holders of title
20 or evidence of title to the lands included within said the
21 district, and addressed to the board of directors or
22 commissioners of the district, may contain the following
23 specifications, in addition to the matters now required by
24 law--viz:

25 (a) How how many series of bonds shall be issued; and

1 (b) The the terms, conditions, and liens of the said
2 bonds, and the terms and conditions upon which each of said
3 the series of bonds shall be exchanged for outstanding bonds
4 of said the district, if the same are to be exchanged and
5 not sold, and any such specifications when set forth in the
6 said petition shall be controlling upon the said board of
7 directors or commissioners. The petitioners shall set forth
8 with particularity in such specifications the contract of
9 exchange to be made and they shall have power to include
10 therein any term, requirement, grant, transfer of property
11 or rights, covenant and condition whatsoever that shall be
12 deemed by the said petitioners to be for the best interests
13 of the said district; and that the board of directors or
14 commissioners of the district shall have the power to
15 authorize and direct the issuance of the said bonds
16 accordingly, and to make any such contract, and to bind the
17 irrigation district thereby.

18 (2) The specifications provided for in subsection (1),
19 when set forth in the petition, are controlling upon the
20 board of directors or commissioners. The petitioners shall
21 in the specifications set forth the contract of exchange to
22 be made, with particularity. The contract may include any
23 term, requirement, grant, transfer of property or rights,
24 covenant, or condition considered by the petitioners to be
25 in the best interest of the district. The petition shall

state that the board of directors or commissioners of the district may authorize and direct the issuance of bonds according to the specifications of the petition, make any such contract, and bind the irrigation district under the contracts."

Section 30. Section 89-1801, R.C.M. 1947, is amended to read as follows:

"89-1801. Tax or assessment to pay bonds and interest.

(1) All bonds and the interest thereon issued hereunder, and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in section 89-1301 provided, shall be paid by revenue derived from a special tax or assessment levied ~~as hereinafter provided~~ upon all the lands included in the district, except upon ~~such those~~ lands as ~~that~~ have been included in ~~such the~~ district on account of the exchange or substitution of water under the provisions of section 89-1611, if ~~any~~ there ~~be~~ are any ~~and all the~~ All lands in the district at the time ~~said the~~ bonds are issued, and all lands subsequently included which are so chargeable under the provisions of this act, shall be and remain liable to be taxed and assessed for the payment of ~~said the~~ bonds and interest, and all payments due or to become due to the United States under

any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in section 89-1301 provided.

(2) ~~It shall be the duty of the~~ The board of commissioners of the district, in the order or resolution authorizing and directing the issuance of bonds of the district, mentioned in section 89-1703, to shall provide for the annual levy and collection of a special tax or assessment upon all the lands included in the district and subject to taxation and assessment ~~as aforesaid~~, sufficient in amount to meet the interest on ~~said the~~ bonds promptly when and as the same accrue, and to discharge the principal thereof at their maturity, or respective maturities, and to meet all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in section 89-1301 provided, at the times such payments by such contract become due and payable. ~~Where~~ When straight maturity bonds are issued, ~~it shall be the duty of the~~ board of commissioners of the district to shall create and maintain a sinking fund sufficient to pay and discharge ~~said the~~ bonds at maturity. If ~~said the~~ bonds ~~shall be~~ are issued for twenty-(20) years or less, there shall be annually

1 levied for such ~~the~~ sinking fund a special tax or
 2 assessment~~as aforesaid~~ sufficient to produce a net amount
 3 represented by the quotient found by dividing the aggregate
 4 amount of the principal of the bonds by the number of years
 5 the bonds have to run; but if ~~said the~~ bonds are issued for
 6 more than ~~twenty~~ {20} years, then it ~~shall~~ is not be
 7 necessary to levy a special tax or assessment for sinking
 8 fund until the twentieth 20th year prior to the maturity of
 9 the bonds, at which time and each year thereafter there
 10 shall be levied and collected a special tax or assessment
 11 sufficient to produce a net sum equal to one-twentieth
 12 ~~{1/20}~~ part of the aggregate amount of the principal of the
 13 bonds.

14 (3) A certified copy of such resolution shall be filed
 15 with the clerk of the board of county commissioners of each
 16 county in which the lands of the irrigation district lie,
 17 and the special tax or assessment therein provided for shall
 18 be levied and collected as ~~hereinafter~~ prescribed, and when
 19 so collected shall, by the county treasurer having custody
 20 of the funds of the district, be placed in a special fund
 21 and used solely for the payment of all ~~amounts due or to~~
 22 ~~become due to the United States under any contract between~~
 23 ~~the district and the United States, accompanying which bonds~~
 24 ~~of the district have not been deposited with the United~~
 25 ~~States as in section 89-1301 provided, and for the payment~~

1 ~~of the interest on and principal of said bonds when due, so~~
 2 ~~long as any of said bonds or the interest coupons thereto~~
 3 ~~appertaining remain outstanding and unpaid~~ bonds issued
 4 under the provisions of this chapter and interest thereon,
 5 so long as any of the bonds or interest coupons remain
 6 outstanding and unpaid. Whenever the payments are made for
 7 amounts due or to become due to the United States, under a
 8 contract between the district and the United States,
 9 accompanying which bonds of the district have not been
 10 deposited with the United States as provided in 89-1301, the
 11 special fund shall be known as the United States contract
 12 fund.

13 (4) In the event that for any reason ~~any~~ a special tax
 14 or assessment ~~hereinabove~~ provided for cannot or ~~shall~~ may
 15 not be levied and collected in time to meet any interest
 16 falling due on any bonds issued hereunder, then the board of
 17 commissioners shall ~~have the power and authority, and it~~
 18 ~~shall be their duty,~~ to provide for and pay such interest
 19 when due, either out of any of the funds in hand in the
 20 treasury of the district not otherwise appropriated, or by
 21 warrants drawn against the next district tax or assessment
 22 levied or to be levied. ~~Said These~~ warrants shall be in
 23 addition to those mentioned in section 89-1701.

24 (5) The board of commissioners shall ~~have power and~~
 25 ~~authority to~~ direct the investment of the funds in any bond

sinking fund ~~aforsaid~~ in interest-bearing securities, whenever in their judgment the ~~same investment~~ may be to the best interest of the district. ~~But-att~~ All such securities shall be converted into cash in time to meet the principal on the bonds, payable from such sinking fund promptly at their maturity."

Section 31. Section 89-1803, R.C.M. 1947, is amended to read as follows:

"89-1803. All irrigable lands chargeable alike. (1) All irrigable lands in each irrigation district, except such lands ~~as--have--been~~ that are included within such ~~the~~ district ~~on-account~~ because of the exchange or substitution of water, under the provisions of section 89-1611, shall pay at the same rate for all purposes for which ~~said the~~ lands are charged, ~~providing--however~~ except as otherwise provided by law, ~~that--there~~ There may be a minimum charge of ~~five--dollars--(\$5.00)~~ against each separately owned tract of land regardless of its size, as hereinafter provided in section 89-1804, ~~and--except--that--whenever~~ Whenever water used for the irrigation of any lands within an irrigation district ~~shall--be~~ is obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation shall be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in such manner as may be

determined fair and equitable by the board of commissioners after considering the facts in each case. Such This apportionment shall be made by the board of commissioners and included each year in the assessment provided for by section 89-1804.

(2) The amount of such ~~the~~ assessment for maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, shall be determined by the board of commissioners in such manner, and upon such notice to the persons interested in ~~said the~~ district, as ~~said the~~ board in its rules and ~~regulations~~ may provide, ~~and--provided--further--that--where~~ Whenever a contract ~~shall~~ has been made with the United States, the lands within the district, whether originally included or later annexed to the district, shall pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued thereunder, and in compliance with any contracts made by the United States with the owners of ~~said the~~ lands, and in compliance ~~further~~ with the contract between the districts and the United States, ~~and--provided~~ further--that--where Whenever the works necessary for the completed project ~~shall--be~~ are constructed progressively, over a period of years, and ~~that--where~~ Whenever a portion of the lands within the district are or can be irrigated one 1 year or more before the completion of the entire project,

1 ~~then-and-in-that-case-such those~~ lands, so irrigated or
 2 that can be so irrigated through the built portion of the
 3 project, shall pay for the cost of operating that portion of
 4 the project serving them with irrigation water and also
 5 shall pay such portion of the interest charges as its
 6 irrigable area bears to the irrigable area of the entire
 7 project, ~~and--in--case--of~~ whenever lands ~~having have~~
 8 appurtenant thereto a partial water right or partial rights
 9 in a system of irrigation other than that of the districts,
 10 the amounts payable shall be equitably apportioned."

11 Section 32. Section 89-1805, R.C.M. 1947, is amended
 12 to read as follows:

13 "89-1805. Determination Procedure for the
 14 determination of irrigable area. (1) For the purpose of
 15 determining the number of acres of irrigable lands in each
 16 ~~forty-acre 40-acre~~ tract or fractional lot as designated by
 17 the United States public survey or platted lot, if land is
 18 subdivided in lots and blocks (or where whenever land ~~shall~~
 19 ~~be is~~ owned in less than ~~forty-acre 40-acre~~ tracts or in
 20 less than the platted lot, then ~~against in~~ each such tract)
 21 of land in the district, the board of commissioners of any
 22 irrigation district ~~organized--hereunder~~ established under
 23 the provisions of chapter 12 of Title 89, whenever deemed
 24 considered advisable and at any time except as otherwise
 25 provided, may cause a careful topographical survey and map

1 of ~~said the~~ lands to be made, as well as a specific
 2 examination of the character of the soil of each ~~such~~ tract.
 3 Upon completion of ~~such the~~ survey and maps, and
 4 examination, the board shall give notice that at a meeting
 5 of ~~said the~~ board, to be held at the office of the board on
 6 a day to be fixed in ~~said the~~ notice, ~~said the~~ board will
 7 determine the irrigable area of each ~~such~~ tract of land in
 8 the district and that it will hear and consider any
 9 objection on the part of any landowner in the district to
 10 ~~such the~~ determination and to adjustment of the irrigable
 11 area of ~~said the~~ district or of any lands within any tract
 12 or subdivision thereof. It ~~shall-not-be~~ is not necessary to
 13 describe ~~said the~~ tracts in ~~said the~~ notice. ~~Such the~~
 14 notice shall be given by publication, once a week for two 2
 15 successive calendar weeks, in a newspaper of general
 16 circulation in the county where the office of the board is
 17 located, and where whenever lands of any irrigation district
 18 lie in more than one county, ~~such the~~ notice shall also be
 19 published in a newspaper or newspapers of general
 20 circulation in each ~~such~~ county. The last publication of
 21 ~~said the~~ notice shall be at least ~~five 5~~ days prior to the
 22 date fixed for ~~said the~~ meeting.

23 (2) At ~~such the~~ meeting, the board shall proceed to
 24 determine and fix the number of acres in each tract or
 25 subdivision irrigable from the works or proposed works of

1 the district and shall hear all persons interested who may
 2 appear and shall continue in session from day to day
 3 (exclusive of Sundays and legal holidays) as long as may be
 4 necessary and until ~~said the~~ determination of irrigable area
 5 ~~shall have been~~ is completed. The board shall hear and
 6 ~~receive~~ all evidence offered, including maps and surveys
 7 caused to be prepared by it as well as maps and surveys
 8 prepared by any owner of lands. Upon such determination,
 9 the irrigable area so fixed shall become and thereafter be
 10 the acreage upon which any special tax or assessment shall
 11 be levied, and each irrigable acre shall pay at the same
 12 rate as every other acre of irrigable land in ~~said the~~
 13 district, ~~shall pay and except as otherwise provided by~~
 14 ~~law, any~~ Any special tax or assessment levied for any
 15 purpose ~~shall be~~ is a lien upon the entire forty-acre
 16 ~~40-acre~~ tract or fractional lot as designated by the United
 17 States public survey or platted lot, if land is subdivided
 18 in lots and blocks (or where ~~whenever~~ land ~~shall be~~ is owned
 19 in less than ~~forty-acre~~ ~~40-acre~~ tracts or in less than the
 20 platted lot, then against each such tract) of land in the
 21 district of which ~~said the~~ irrigable area forms a part, and
 22 ~~said the~~ lien shall attach to ~~said the~~ entire tract as of
 23 the first day of January 1 in the year in which ~~said the~~
 24 special tax or assessment is levied.

25 (3) Upon completing ~~such the~~ determination, the board

1 shall fix, by appropriate resolution or order, the total
 2 acreage and the irrigable acreage of each ~~such~~ tract or
 3 subdivision and shall cause to be prepared a list of all
 4 lands in ~~said the~~ district, which list shall contain an
 5 accurate description of each ~~such forty-acre~~ ~~40-acre~~ tract
 6 or fractional lot as designated by the United States public
 7 survey or platted lot, if land is subdivided in lots and
 8 blocks (or where ~~whenever~~ land ~~shall be~~ is owned in less
 9 than ~~forty-acre~~ ~~40-acre~~ tracts or in less than the platted
 10 lot, then against ~~of~~ each such tract) of land in ~~said the~~
 11 district, the total acreage and the number of irrigable
 12 acres therein as so fixed and determined, and the name of
 13 the owner or holder of title or evidence of title thereof,
 14 ascertained as provided in section 89-1201. ~~Such~~ This list,
 15 when completed and adopted, shall be filed in the office of
 16 the board of commissioners and shall remain there for public
 17 inspection. A certified copy of ~~such the~~ resolution and
 18 list shall be filed with the county clerk and recorder of
 19 each county in which any portion of the lands in ~~said the~~
 20 district are situated, ~~provided, however, there shall be~~
 21 ~~omitted from such copy the~~ lands not situated in the county
 22 in which such copy is filed ~~shall be omitted from the copy.~~

23 (4) No special tax or assessment ~~shall may~~ be levied
 24 against any ~~forty-acre~~ ~~40-acre~~ tract or fractional lot as
 25 designated by the United States public survey or platted

1 lot, if land is subdivided in lots and blocks (or where
 2 ~~whenever~~ lands ~~shall be~~ are owned in less than forty-acre
 3 ~~40-acre~~ tracts or in less than the platted lot, then against
 4 each such tract) found by ~~said the~~ board to contain no
 5 irrigable land; nor ~~shall may~~ any lien created after the
 6 order of determination herein--~~provided for~~ attach to any
 7 such tract, nor ~~shall may~~ the owner or owners of any tract
 8 or tracts have any vote or votes in any proceeding or
 9 election under the provisions of Chapter 146 of the Laws of
 10 1909, or any amendment thereof, or act supplementary
 11 thereto, after the making of such order, unless ~~his said~~
 12 ~~their land~~ or a portion thereof ~~be is~~ found by ~~said the~~
 13 board to contain an area irrigable from the works or
 14 proposed works of ~~said the~~ district.

15 (5) Upon the determination provided for in this
 16 section, the board of commissioners ~~shall have the power to~~
 17 ~~may~~ refund any taxes paid or cancel any unpaid taxes or
 18 assessments levied upon an acreage in excess of that so
 19 fixed by ~~said the~~ order of determination and where ~~whenever~~
 20 necessary, may issue warrants therefor.

21 (6) Within ~~sixty 60~~ days after such ~~the~~ resolution
 22 adopting ~~said the~~ list, the board of commissioners may
 23 petition the district court for confirmation of their acts
 24 in determining the irrigable area--~~as aforesaid~~, and in
 25 refunding or canceling any taxes or assessments. The

1 majority in number and acreage of the holders of title or
 2 evidence of title to lands in ~~said the~~ district, ascertained
 3 as provided in this act ~~provided~~, may, likewise, within such
 4 ~~sixty-day 60-day~~ period, petition the district court for
 5 review of the actions of the board of commissioners. But
 6 ~~However~~, one of such ~~these~~ proceedings, if prosecuted to
 7 determination, ~~shall be is~~ exclusive of the other. Upon
 8 such proceeding, the court may order any assessment of taxes
 9 upon any land or lands to be reduced or raised according to
 10 the irrigable area as found by the court or taxes
 11 previously levied upon any area shown to be excessive to be
 12 refunded or canceled.

13 (7) The provisions of section 89-1402, regarding the
 14 procedure as well as the right and time to appeal ~~shall~~
 15 apply to any proceeding instituted in--~~pursuance of the~~
 16 ~~provisions of~~ pursuant to this section; ~~provided however~~
 17 ~~that nothing in this section shall be deemed or construed to~~
 18 ~~affect or impair~~ affects or impairs the lien of any bonds
 19 issued by the district, ~~and provided further that if~~ If
 20 confirmation proceedings are held and a certified copy of
 21 the order of confirmation ~~be is~~ filed with the county clerk
 22 and recorder of the county in which any portion of ~~said the~~
 23 lands is situated, it ~~shall not be is not~~ necessary to file
 24 in ~~said the~~ office the certified copy of the resolution and
 25 order of the board or of the list ~~hereinabove~~ provided for

1 in this section.

2 (8) ~~Provided--however--that where~~ Whenever districts
3 have been established in order to co-operate ~~cooperate~~ with
4 the United States under the federal reclamation laws
5 heretofore--or--hereafter--enacted, or under any act of
6 Congress, ~~congress~~ which ~~shall--permit--of~~ permits the
7 performance by the United States of work in this state, for
8 the purposes of construction of irrigation works, including
9 drainage works, or for purchase, extension, operation, or
10 maintenance of construction works, or for the assumption as
11 principal or guaranty of indebtedness to the United States
12 on account of district ~~lands~~, the determination of the
13 irrigable area of the lands in ~~said the~~ district may be made
14 by the ~~said~~ board of commissioners in the manner provided in
15 this section provided or by the United States at the option
16 of the latter, and, if the United States determines the
17 irrigable area, the proceeding for the apportionment and
18 distribution of the costs of the proposed works or
19 improvements--hereinafter provided for in section 89-1806
20 shall may not be had."

21 Section 33. Section 89-1806, R.C.M. 1947, is amended
22 to read as follows:

23 "89-1806. ~~Determination--of--irrigable--area--~~
24 ~~apportionment-and-distribution-of-costs-of-proposed-works-or~~
25 improvements Apportionment of costs when bonds issued. (1)

1 Whenever a petition for the issuance of bonds of any
2 irrigation district organized---hereunder---shall---have
3 established under the provisions of chapter 12 of Title 89
4 has been filed, as hereinbefore provided in section 89-1703
5 provided, the board of commissioners of ~~such the~~ district
6 shall examine, or cause to be examined, each ~~forty-acre~~
7 40-acre tract or fractional lot as designated by the United
8 States public survey, or platted lot, if land is subdivided
9 in lots and blocks (or where ~~when~~ whenever land ~~shall--be~~ is owned
10 in less than ~~forty-acre~~ 40-acre tracts or in less than the
11 platted lot, then ~~against~~ each such tract) of land in ~~said~~
12 ~~the~~ district, and cause a careful topographical survey and
13 map to be made, in the manner provided for in section
14 89-1805. Upon such examination, the board shall determine
15 the number of irrigable acres in each such tract, and shall
16 apportion and distribute the cost of the works or
17 improvements for which ~~said the~~ bonds are to be issued, over
18 the tracts within ~~said the~~ district according to the
19 irrigable area in each of ~~said the~~ tracts or subdivisions,
20 so that each such irrigable acre ~~shall--be~~ is required to
21 bear the same burden of such costs as each other irrigable
22 acre in ~~said the~~ district, ~~and--the~~ except as otherwise
23 provided by law. The special tax or assessment levied to
24 meet the principal of and interest on ~~said the~~ bonds so
25 authorized--shall-become is a lien upon the entire tract of

1 which such irrigable area forms a part or portion as of the
 2 ~~first day of~~ January 1 of the year in which ~~such the~~ special
 3 tax or assessment is levied, and the number of irrigable
 4 acres in each such tract as so determined ~~shall may~~ not be
 5 diminished but may be increased during the term for which
 6 any such bonds ~~may be~~ are issued or until the bonds ~~shall be~~
 7 are liquidated in full.

8 (2) ~~Provided, however, that if whenever~~ a proceeding
 9 for the determination, in whole or in part, of the irrigable
 10 area of the lands in ~~said the~~ district has already been had
 11 or a topographical survey or maps thereof prepared, or a
 12 court confirmation of ~~said prior~~ proceedings had, in part or
 13 in full, the ~~said board~~ may, in its discretion, adopt all or
 14 such portions of ~~said the~~ prior proceedings, and ~~in such on~~
 15 ~~eventy it shall not be necessary to~~ need not cause an
 16 additional survey, or maps, or examination, of any of such
 17 tracts to be ~~again~~ made, or to redetermine the irrigable
 18 area of any such tract.

19 (3) The board shall make such determination after ~~the~~
 20 hearing ~~had~~ and shall fix the total acreage and the
 21 irrigable acreage, and shall cause a list of such irrigable
 22 area to be made and filed, and the proceedings of the board
 23 in connection with such determination, including ~~said the~~
 24 hearing and notice of ~~said the~~ hearing, and order or
 25 resolution fixing the irrigable area and the preparation and

1 filing of ~~said the~~ list, shall conform to the requirements
 2 set forth in ~~section~~ 89-1805. At ~~such the~~ hearing, the ~~said~~
 3 board shall also determine the amount and rate per acre
 4 necessary to be levied against each irrigable acre in the
 5 district to meet the interest on and principal of ~~said the~~
 6 authorized bond issue, and any tax levied for such purposes
 7 ~~shall be~~ is a lien upon the entire tract of which ~~said the~~
 8 irrigable area forms a part. If any landowner in the
 9 district ~~shall appear~~ appears before the board at ~~said that~~
 10 time and ~~pay~~ pays in cash the amount fixed against his ~~said~~
 11 land as its proportion of the amount found necessary for the
 12 purposes for which ~~said the~~ bonds were authorized and are to
 13 be issued, his land shall be excluded from the lien of the
 14 bond issue and the amount of bonds intended to be issued
 15 shall be reduced by the amount of such payment. Any person
 16 interested who ~~shall fail~~ fails to appear before the board
 17 at ~~said the~~ meeting ~~shall may~~ not thereafter be permitted to
 18 contest the proceedings of ~~said the~~ board, or any part
 19 thereof, except upon special application to the court in the
 20 proceedings for the confirmation of ~~said the~~ bonds and a
 21 showing of reasonable excuse for failure to appear before
 22 ~~said the~~ board of commissioners.

23 (4) In case any such landowner makes objection to the
 24 proceedings of ~~said the~~ board in determining the irrigable
 25 area in his own or any other tract of land, or the amount or

1 rate per acre of the special tax and assessment to be levied
 2 against each irrigable acre in the district for the purposes
 3 of the proposed bond issue, and ~~said the~~ objection is
 4 overruled by the board, ~~such the~~ objection without further
 5 proceedings shall be regarded as appealed to the district
 6 court, and shall, with the other proceedings of ~~said the~~
 7 board at ~~said the~~ meeting, be heard at the proceedings to
 8 confirm ~~said the~~ bonds, as provided in section 89-1704, and
 9 when so confirmed, ~~said the~~ order overruling such objection
 10 and confirming the order of the board determining the
 11 irrigable area of each tract of land and apportioning the
 12 cost of the improvement thereon shall become final,
 13 binding and conclusive upon ~~said the~~ landowner and upon the
 14 district, unless appealed from as provided in ~~said--section~~
 15 89-1704 provided.

16 (5) ~~Provided,--however,--that--whenever~~ Whenever the
 17 irrigable area of the lands in any irrigation district ~~shall~~
 18 ~~have~~ has been determined and confirmed, no owner or holder
 19 of title or evidence of title to lands in ~~said the~~ district,
 20 during the period of ~~when~~ any bonds thereafter authorized
 21 ~~shall-be~~ are issued and outstanding, ~~shall~~ may have the
 22 taxable acreage of his ~~said~~ lands fixed or adjudicated in
 23 the manner provided by sections 89-1404 to ~~through~~ 89-1408,
 24 in such manner or to such extent as to reduce the acreage
 25 subject to the payment of ~~such the~~ bonds or interest

1 thereon, or in such manner as to affect the security of
 2 ~~such the~~ bonds or interest thereon."

3 Section 34. Section 89-1811, R.C.M. 1947, is amended
 4 to read as follows:

5 "89-1811. County treasurer as custodian of district
 6 funds. The county treasurer of the county wherein ~~where~~ the
 7 office of an irrigation district is located ~~shall-be~~ is the
 8 custodian of all funds belonging to the district, and he
 9 shall pay out such funds upon the order of the board of
 10 commissioners, except ~~as-to~~ payments on bonds and interest,
 11 for which, no order ~~shall-be~~ is necessary. ~~Where~~ If any
 12 portion of the funds belonging to a district ~~have~~ has been
 13 collected for the purpose of establishing a reserve fund,
 14 the county treasurer shall pay such portion to the district
 15 on order of the district's board of commissioners, who ~~shall~~
 16 ~~have--authority--to~~ may invest the same in state or federal
 17 bonds or in savings certificates of institutions insured by
 18 the federal deposit insurance corporation. Where moneys of
 19 a district in the United States contract fund established
 20 pursuant to ~~section--89-1809~~ 89-1801(3) are in excess of
 21 those needed to pay a district's next succeeding annual
 22 contract obligation or obligations to the United States,
 23 such excess, or any part thereof, may, upon order of the
 24 district's board of commissioners, and with the consent of
 25 the United States officer administering the contract for

1 which the contract fund has been established, be paid to the
2 district for use in meeting other obligations of the
3 district. Such orders of the board of commissioners shall be
4 signed by the president and secretary of the board, and
5 shall bear the official seal of the district."

6 Section 35. Section 89-1816, R.C.M. 1947, is amended
7 to read as follows:

8 "89-1816. Proceeds of sale. Whenever ~~pursuant to the~~
9 ~~provisions of the preceding section,~~ any lot, tract, piece,
10 or parcel of land included within and forming a part of any
11 irrigation district created under the provisions of this
12 chapter, or included within any extension of such district,
13 ~~shall be~~ is sold by the treasurer of the county wherein
14 ~~where~~ such land is situated, in the manner provided by law
15 for the sale of lands for delinquent taxes for state and
16 county purposes, and taxes or assessments of such ~~the~~
17 irrigation district form all or a part of the taxes for
18 which such lands are sold, ~~it shall be the duty of~~ the
19 county treasurer making such sale or sales to shall place to
20 the credit of the proper funds of such irrigation district,
21 out of the proceeds of such ~~the~~ sale or sales, the total tax
22 or assessment of such ~~the~~ irrigation district, inclusive of
23 the interest and penalty thereon as provided for by the
24 general laws relating to delinquent taxes for state and
25 county purposes, and whenever any such lands are struck off

1 at such sale to the county wherein ~~where the same they~~ are
2 ~~situate,~~ situated pursuant to the provisions of section
3 84-4124, the county treasurer of such ~~the~~ county must, upon
4 the issuance of the certificate of tax sale to ~~said the~~
5 county, issue to ~~said the~~ irrigation district, and in its
6 corporate name, a debenture certificate for the amount of
7 taxes and assessments due to ~~said the~~ irrigation district
8 from ~~said the~~ lands and premises so sold, inclusive of the
9 interest and penalty thereon, which certificate ~~shall be~~ is
10 evidence of and conclusive of the interest and claim of ~~said~~
11 ~~the~~ irrigation district in, to, against, and upon the lands
12 and premises so struck off to ~~said the~~ county at such ~~the~~
13 tax sale, and ~~from and~~ after the issuance of ~~said the~~
14 certificate, the sum named therein and the taxes and
15 assessments of ~~said the~~ district evidenced thereby shall
16 bear interest at the rate of ~~one per centum per~~ 1% a month
17 from the date of ~~said the~~ certificate until redeemed in the
18 manner provided for by law for the redemption of the lands
19 sold for delinquent state and county taxes, or until paid
20 from the proceeds of the sale of the lands and premises
21 described therein, in ~~the~~ manner provided for by section
22 ~~2235 of these codes~~ law, and duplicates of such certificates
23 so issued to ~~said the~~ irrigation district shall be filed in
24 the office of the county clerk and county treasurer of ~~said~~
25 ~~the~~ county with the certificate of tax sale of ~~said the~~

1 lands and premises."

2 Section 36. Section 89-1819, R.C.M. 1947, is amended
3 to read as follows:

4 "89-1819. Sale by county commissioners when land not
5 redeemed. When the lands and premises so sold for taxes and
6 upon and against which the certificates ~~herein provided for~~
7 have been issued for the taxes and assessments of ~~such the~~
8 irrigation district are not redeemed within the time
9 provided for by section 84-4132, ~~it shall be the duty of~~ the
10 board of county commissioners of ~~said the~~ county, within
11 ~~three 3~~ months thereafter, to ~~shall~~ cause ~~said these~~ lands
12 and premises to be sold as provided for by ~~section 2235 of~~
13 ~~these codes law~~, and out of the proceeds of the sale,
14 thereof the county treasurer of ~~said the~~ county shall pay to
15 the holder or holders of ~~such the~~ certificates the sum or
16 sums for which the same were issued, with interest as
17 therein provided for to the date of ~~said the~~ sale of ~~said~~
18 ~~the~~ lands by the board of county commissioners, and no lands
19 and premises so held by any county and against which the
20 certificates provided for by this chapter have been issued
21 ~~shall may~~, upon such sale, be struck off or sold for a less
22 sum than the amount of taxes and assessments of ~~said the~~
23 irrigation district represented by ~~said the~~ certificate,
24 inclusive of the interest thereon, in addition to the state
25 and county taxes, if any, against the same."

1 Section 37. Section 89-2003, R.C.M. 1947, is amended
2 to read as follows:

3 "89-2003. Contents of petition. ~~Said the~~ petition of
4 ~~89-2002~~ shall set forth the amount of the outstanding bonds,
5 coupons, and other indebtedness, if ~~such--there be any,~~
6 together with the general description of ~~the--same them,~~
7 showing the amount of each ~~description--of described~~
8 indebtedness and the ownership, so far as known, of the same
9 ~~indebtedness~~. ~~Said the~~ petition shall also state the assets
10 of ~~said the~~ district, including ~~any irrigation systems--if~~
11 ~~any systems,~~ dams, reservoirs, canals, franchises, water
12 rights, and other property; and in case any proposition has
13 been made by the holders of ~~said the~~ indebtedness to settle
14 the ~~same indebtedness~~, ~~said this~~ proposition, together with
15 any plan proposed to carry the ~~same proposition~~ into
16 execution, shall be included in ~~said the~~ petition."

17 Section 38. Section 89-2109, R.C.M. 1947, is amended
18 to read as follows:

19 "89-2109. Interpretation of ~~act title~~. The object of
20 ~~this act--being to--secure--the irrigation of lands of the~~
21 ~~state--and thereby title is~~ to promote the prosperity and
22 welfare of the people ~~--its provisions shall be liberally~~
23 ~~construed so as to effect the objects--and purposes--herein~~
24 ~~set--forth of Montana through the sound management of the~~
25 ~~state's water resources, and its provisions are to be given~~

1 a liberal interpretation."

2 Section 39. Section 89-2126, R.C.M. 1947, is amended
3 to read as follows:

4 "89-2126. ~~Court-to-approve-contracts~~ United States
5 contracts -- court approval required. The board of
6 commissioners of any irrigation district, before the making
7 of any contract with the United States hereunder, shall
8 commence a special proceeding in the district court of the
9 state, ~~in--and~~ by which the proceedings of the board and of
10 ~~said the~~ district leading up to the making of any such
11 contract and the validity of the terms thereof shall be
12 judicially examined, and approved and affirmed, or
13 disapproved or and disaffirmed."

14 Section 40. Section 89-2203, R.C.M. 1947, is amended
15 to read as follows:

16 "89-2203. Amendment and circulation of
17 ~~petition--circulation -- court~~ consideration by ~~court~~. No
18 petition having as many signers as are required by ~~this~~
19 ~~section 89-2201 shall~~ may be declared void, but the court
20 may at any time permit the petition to be amended in form
21 and substance to conform to the facts, if the facts justify
22 the organization of a drainage district. Several similar
23 petitions for the organization of the same district may be
24 circulated, and, when filed, ~~together~~ shall ~~together~~ be
25 regarded as one petition having as many signers as there are

1 separate adult signers on the several filed petitions ~~filed~~
2 who own lands within ~~said the~~ proposed drainage district.
3 All petitions for the organization of ~~said the~~ district
4 filed prior to the hearing on ~~said the~~ petition shall be
5 considered by the court, the same as if filed with the first
6 petitions placed on file, and the signatures thereon
7 ~~contained~~ shall be counted in determining whether sufficient
8 landowners have signed ~~said the~~ petition."

9 Section 41. Section 89-2302, R.C.M. 1947, is amended
10 to read as follows:

11 "89-2302. Election of commissioners -- terms regular
12 term of office. (1) The regular election of commissioners
13 shall be held annually on the first Tuesday in April of each
14 year; the term of office of commissioners shall commence on
15 the first Tuesday in May following their election. At the
16 first regular election following the organization of a
17 district, and in districts heretofore organized and in
18 existence on ~~the date when this act takes effect~~ March 1,
19 1921, and which, on petition, ~~has~~ have been divided into
20 divisions, ~~as hereinbefore provided,~~ at the first regular
21 election following the date of the order making such
22 division, there shall be elected three commissioners, one
23 commissioner being elected from each division of which he
24 must be an actual landowner ~~and resident of the county or~~
25 ~~counties;~~ one of ~~such the~~ commissioners, to be determined by

1 lot, shall hold office until the first Tuesday in May in the
 2 year following his election, another of ~~such the~~
 3 commissioners, to be determined by lot, shall hold office
 4 until the first Tuesday in May in the second year following
 5 his election, and the third of ~~such the~~ commissioners shall
 6 hold office until the first Tuesday in May in the third year
 7 following his election; thereafter one commissioner shall be
 8 elected each year, who shall hold office for a term of ~~three~~
 9 ~~3~~ years and until his successor is elected and qualified;
 10 provided, that the person elected as a commissioner in each
 11 year to succeed the commissioner whose term is then expiring
 12 must be elected as a commissioner from the same division as
 13 the commissioner whom he is to succeed.

14 (2) Each commissioner must be a resident of a county
 15 where a portion of the district lands are situated."

16 Section 42. Section 89-2348, R.C.M. 1947, is amended
 17 to read as follows:

18 "89-2348. ~~Assessments--for--construction~~ Construction
 19 assessments -- annual installment. At the time of the
 20 confirmation of ~~such the~~ assessments as provided in 89-2342,
 21 ~~it shall be--competent--for~~ the court to may order the
 22 assessment for construction of new work, to be paid in not
 23 more than ~~fifteen--(15)~~ annual installments, of such amounts
 24 and at such times as will be convenient for the
 25 accomplishment of the proposed work, or for the payment of

1 the principal and interest of such notes or bonds of ~~said~~
 2 ~~the~~ district, as the court ~~shall grant~~ grants authority to
 3 issue, for the construction of new work. The court shall
 4 also, by such order, fix a date on which the first
 5 installment of the assessments for construction shall become
 6 due, not more than ~~five--(5)~~ years after the date of the
 7 order, and each of ~~said the~~ installments shall draw interest
 8 at the rate fixed by the court in accordance with law from
 9 the date of ~~said the~~ order."

10 Section 43. Section 89-2411, R.C.M. 1947, is amended
 11 to read as follows:

12 "~~89-2411. Omissions--how--corrected~~ Correction of
 13 omissions. Omission to assess benefits, or to assess for
 14 construction, or to make additional assessments, or to make
 15 assessment for repairs, or to award damages to any one or
 16 more tracts of land or easements in a drainage district, or
 17 to assess benefits, ~~or--to~~ assess for construction, ~~or--to~~
 18 assess for repairs, or to make additional assessments
 19 against any corporation which should have been assessed,
 20 ~~shall neither does not~~ affect the jurisdiction of the court
 21 to confirm the report ~~nor or~~ to render the benefits
 22 assessed, or the assessments for construction, or additional
 23 assessments, or assessments for repairs against other lands,
 24 or assessments against any corporation voidable; but the
 25 commissioners of ~~said the~~ drainage district shall

1 thereafter, as soon as they discover the omission, or as
 2 soon as they have notice thereof, either agree with the
 3 omitted parties upon the proper assessments and award the
 4 damages or assess such benefits, make such assessments for
 5 construction, and make such additional assessments against
 6 the omitted lands and corporations, and award such damages
 7 as ~~shall be~~ are just, and report the facts, together with
 8 such assessments and awards, to the court."

9 Section 44. Section 89-2701, R.C.M. 1947, is amended
 10 to read as follows:

11 "89-2701. Continuation of existing districts. All
 12 drain districts of the state of Montana, organized prior to
 13 ~~the enactment of sections 89-2201 to 89-2502 and sections~~
 14 ~~89-2601 to 89-2620, inclusive March 1, 1921, and continued~~
 15 ~~in existence pursuant to section 89-2620 100, Chapter 129,~~
 16 ~~Laws 1921,~~ shall continue their existence as drain districts
 17 under and pursuant to all of the provisions of ~~said sections~~
 18 drainage district laws, and the commissioners of such drain
 19 districts shall have all the power and authority conferred
 20 by ~~said sections~~ the drainage district laws upon the
 21 commissioners of drainage districts ~~organized under such~~
 22 ~~sections."~~

23 Section 45. Section 89-2711, R.C.M. 1947, is amended
 24 to read as follows:

25 "89-2711. Rules of practice applicable. The same rules

1 relative to the filing of ~~demurrers~~, answers and replies
 2 ~~which now exist~~ relative to other causes of action affecting
 3 the title to real property shall apply in actions to exclude
 4 lands from a drainage district, and all issues arising may
 5 be tried by the court without a jury."

6 Section 46. Section 89-2810, R.C.M. 1947, is amended
 7 to read as follows:

8 "89-2810. Assessments against annexed lands. ~~Said the~~
 9 commissioners shall, after the time for appeal is past,
 10 assess against each parcel, tract, and easement of ~~and said~~
 11 ~~the~~ annexed lands reasonable and just benefits, and shall
 12 assess against ~~said these~~ lands for construction and repairs
 13 such sums as ~~shall be~~ are just. If lands similarly situated
 14 and benefited are found in ~~said the~~ district, the annexed
 15 lands shall be assessed a like sum of benefits and damages
 16 as ~~said the similar~~ lands in the ~~said~~ district to which they
 17 are sought to be annexed, and a sum for construction of ~~said~~
 18 ~~the work,~~ which shall be equal to all sums assessed, for the
 19 complete construction of the drainage system in the district
 20 to which they are sought to be annexed against lands having
 21 the same assessment of benefits in ~~said the~~ district."

22 Section 47. Section 89-2926, R.C.M. 1947, is amended
 23 to read as follows:

24 "89-2926. Waste and contamination of ~~ground-water~~
 25 groundwater prohibited ~~exception duties of department. (1)~~

1 No ~~ground--waters~~ groundwater shall ~~may~~ be wasted without
 2 ~~beneficial--use~~. The department shall require all wells
 3 producing waters which contaminate other waters to be
 4 plugged or capped. It shall also require all flowing wells
 5 to be so capped or equipped with valves that the flow of
 6 water can be stopped when the water is not being put to
 7 beneficial use. Likewise, both flowing and nonflowing wells
 8 shall be so constructed and maintained as to prevent the
 9 waste, contamination, or pollution of ~~ground--waters~~
 10 groundwater through leaky casings, pipes, fittings, valves,
 11 or pumps either above or below the land surface, provided,
 12 however, in the following cases the withdrawal or use of
 13 ~~ground--water~~ groundwater shall not be construed as waste
 14 under this act:

15 ~~(1)(a)~~ the withdrawal of reasonable quantities of
 16 ~~ground---water~~ groundwater in connection with the
 17 construction, development, testing, or repair of a well or
 18 other means of withdrawal of ~~ground--waters~~ groundwater;

19 ~~(2)(b)~~ the inadvertent loss of ~~ground--water~~
 20 groundwater owing to breakage of a pump, valve, pipe, or
 21 fitting, if reasonable diligence is shown by the person in
 22 effecting the necessary repair;

23 ~~(3)(c)~~ the disposal of ~~ground---water~~ groundwater
 24 without further beneficial use that must be withdrawn for
 25 the sole purpose of improving or preserving the utility of

1 land by draining the same, or that must be removed from a
 2 mine to permit mining operations or to preserve the mine in
 3 good condition;

4 ~~(4)(d)~~ the disposal of ~~ground--water~~ groundwater used
 5 in connection with ~~production--for--reduction~~ producing,
 6 reducing, smelting, and milling metallic ores and industrial
 7 minerals, or that displaced from an aquifer by the storage
 8 of other mineral resources.

9 ~~(2)~~ The department at any time may hold a hearing on
 10 its own motion, or upon petition signed by a representative
 11 body of users of ~~ground--water~~ groundwater in any area or
 12 subarea, to determine whether the water supply within such
 13 area or subarea is used in compliance with this act."

14 Section 48. Section 89-2929, R.C.M. 1947, is amended
 15 to read as follows:

16 "89-2929. Reports ~~to--be--in--addition--to--other--reports~~
 17 required by water well drillers. The forms, reports, and
 18 information required to be ~~filed~~ filed by this act shall
 19 ~~be are~~ in addition to all other reports and information
 20 which the drillers of water wells in the state of ~~Montana~~
 21 are required by law to file with agencies of the state of
 22 ~~Montana.~~"

23 Section 49. Section 89-3425, R.C.M. 1947, is amended
 24 to read as follows:

25 "89-3425. Challenging voters--~~oath--penalty--for--false~~

1 subscription. An elector may challenge any person who claims
2 the right to vote. Before voting, any person challenged must
3 take and sign the following oath or affirmation administered
4 by an election judge:

5 "I(name) solemnly swear (or affirm) that I am an
6 elector of the district and have not voted today." False
7 subscription to the oath or affirmation is perjury and
8 ~~punishable as such~~ false swearing and is punishable as
9 provided in 94-7-203."

10 Section 50. Section 89-3449, R.C.M. 1947, is amended
11 to read as follows:

12 "89-3449. Other agencies not affected. The provisions
13 of this act ~~shall not be construed to~~ do not in any manner
14 abrogate or limit in any manner the rights, powers, duties,
15 and functions of the department, ~~conservation commission~~
16 conservation districts, department of health and
17 environmental sciences, or the fish and game commission but
18 ~~shall be held to be~~ are supplementary thereto and in aid
19 thereof."

20 Section 51. Severability. If a part of this act is
21 invalid, all valid parts that are severable from the invalid
22 part remain in effect. If a part of this act is invalid in
23 one or more of its applications, the part remains in effect
24 in all valid applications that are severable from the
25 invalid applications.

1 Section 52. Repealer. Sections 89-128, 89-1901, and
2 89-2818, R.C.M. 1947, are repealed.

-End-